8 February 2021

**DECISION**

**RACING VICTORIA**

**and**

**NOEL CALLOW**

**Date of hearing:** 29 January 2021

**Panel:** Judge John Bowman (Chairperson) and Dr June Smith.

**Appearances:** Mr Peter Ryan appeared on behalf of the Stewards.

Mr Bruce Clark represented Mr Callow.

Mr Noel Callow appeared.

**Charge:** Australian Rule of Racing (“AR”) 129(2) states:

A rider must take all reasonable and permissible measures throughout the race to ensure that the rider's horse is given full opportunity to win or to obtain the best possible place in the field.

**Particulars of charge:** 1. You are, and were at all relevant times, a jockey licensed by Racing Victoria.

2. On Friday, 25 September 2020, you rode *Grand Pope* (the **Horse**) in Race 1, the O’Halloran’s Garage Doors 3yo Maiden Plate at Benalla (the Race).

3. During the Race:

(a) approaching and passing the 300m, for at least seven strides (or approximately 50m), you failed to improve your position between *Ranceski* and *Granturismo* when there was sufficient room to do so, and when it was reasonable and permissible to do so; and/or

(b) from near the 120m, when a run presented between *Ranceski* and *Granturismo*, you failed to ride the Horse with sufficient vigour and purpose to the end of the Race, where it was reasonable and permissible for you to do so.

4. Your conduct as noted in particular 3 meant that you failed to provide the Horse with full opportunity to win or to obtain the best possible place in the field.

**Plea:** Not guilty

**DECISION**

Mr Noel Callow, you have pleaded “not guilty” to a breach of Australian Rule of Racing (“AR”) 129(2), which could be summarised as requiring jockeys to take all reasonable and permissible measures throughout a race to ensure that a horse is given full opportunity to win or to obtain the best possible place in the field.

The charge relates to your ride on Grand Pope, trained by Mr Nick Ryan, in Race 1 over 1206 metres at Benalla on 25 September 2020. Grand Pope started $3.10 favourite. A total of $359,260 had been wagered on the horse, which finished 10th in a field of 13. It is not alleged by the Stewards that any issue of integrity is involved.

The parts of the race that are of particular interest and which form the foundation of the charge are firstly in the vicinity of the 300 metre mark, where it is alleged that you failed for approximately seven strides or 50 metres to improve your position between Ranceski, ridden by Mr Brian Higgins and Granturismo, ridden by Mr Dylan Dunn, when it was reasonable and permissible to do so. Secondly, it is alleged that from near the 120 metre mark, when a run presented between the same two horses, you failed to ride your mount with sufficient vigour and purpose to the end of the race in a situation when it was reasonable and permissible for you to do so.

We would add that the trainer of your horse, Grand Pope, namely Mr Nick Ryan was disappointed in and highly critical of your ride and specifically in your failure to take the runs that presented themselves to you.

We have viewed the video many times and had the benefit of detailed and helpful submissions by Mr Peter Ryan on behalf of the Stewards and Mr Bruce Clark on your behalf.

There is no criticism of your ride for the first 500 or more metres. The horse was not expected to begin brilliantly and from barrier 7 effectively you went across to the rails and were at the rear of the field. Your horse may have pulled a little early, but in our opinion settled comfortably. Much of this was expected. There may have been some minor interference from another runner, but basically the horse was running comfortably. You were behind the mount of Mr Higgins, closest to the rails, and Mr Dunn, to its outside. Approaching the 300 metre mark, you were clearly going better than them. We accept that Mr Dunn’s mount then drifted out a little and a clear run opened up between it and Mr Higgins. Your horse was in a position to take that run and we accept the Stewards’ submission that this was so for about 50 metres. You did not take the run or push your horse along and attempt to take it. We accept that it would have been both reasonable and permissible for you to do so. Effectively you just sat on your horse. Ultimately, the run closed.

However, it opened up again at about the 120 metre mark. If anything, the gap was even wider. Your horse was still going well and clearly better than Mr Higgins’ or Mr Dunn’s mounts. Apart from one brief effort, again you failed to ride your horse out and push it through the quite wide gap. Your horse had effectively not been put under anything like full pressure from the 300 metre mark onwards.

In relation to the charge involving what occurred at and after the 300 metre mark, we do not accept your explanation to the Stewards that you would have received interference from Mr Dunn’s horse if you had ridden into the gap. The video shows no reason for such concern.

You accepted some responsibility for what occurred at and after the 120 metre mark. However, essentially you said that the race was all over anyway.

You did tell Stewards that you made a mistake by just sitting on the horse for about five strides.

As stated, trainer Mr Nick Ryan was highly critical of the ride from about the 300 metre mark, if not earlier, onwards. He referred to the fact that, from you, there certainly was not much vigour. He was not satisfied with the ride. He referred to you making some terrible decisions. He believed the horse should have gone close to winning the race. He referred to you as just giving up. Concerning the run near the 300 metre mark, he could see no reason why you did not take the run, saying that “it’s pretty black and white”. Over the last 100 metres he saw no vigour or intent in the riding. He said that you made some very bad decisions and it got worse and worse.

We are comfortably satisfied that this charge has been made out. This was no split second decision or error of judgement. It was a failure by you as a very experienced jockey to take a runs, firstly over about 50 metres and secondly over about 100 metres. There were no other horses causing interference to you. You clearly failed to improve your position, showing no vigour, when it was reasonable and permissible for you so to do.

In short, we are comfortably satisfied that the charge has been proven.

**PENALTY**

We have heard the submission of the parties on the question of penalty.

In the present case, there was a plea of “Not Guilty” and the matter conducted accordingly. Thus, there is no discount for a plea of guilty.

This was a substantial breach of this Rule occurring over a lengthy distance.

It is largely inexplicable, but it was a marked and prolonged breach of the Rule. The Rule itself is one which directly relates to the public image of racing and its fairness. It is one of the Rules aimed at supporting the image of a level and fair playing field. We would repeat that there is no suggestion of a deliberate breach of integrity for a nefarious purpose. However, it is a substantial breach of the Rule.

In our opinion, and there being no suggestion of a discount for a guilty plea, suspension for 4 weeks is the appropriate penalty.

We leave it to the parties to fix the starting date of that period of suspension.

Mark Howard  
Registrar, Victorian Racing Tribunal