7 July 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**OLIVIA WEIDENBACH**

**Date of hearing:** 21 June 2022

**Panel:** Judge John Bowman (Chairperson) and Mr Greg Childs.

**Appearances:** Mr Adrian Crowther appeared on behalf of the Stewards.

Mr Ben Gledhill represented Ms Olivia Weidenbach.

**Charge:** Australian Harness Racing Rule (“AHRR”) 149(2) states:

(2) A person shall not drive in a manner which in the opinion of the Stewards is unacceptable.

**Particulars of charge:** Stewards charged Ms Weidenbach pursuant to Rule 149(2). The particulars of the charge are that Ms Weidenbach had directed her drive wider on the track from the 1000 metres and driven vigorously with her whip until the winning post, at which point she briefly ceased driving, before again placing her drive under pressure from approximately the 600 metres, from which point her drive was continuously under pressure. Ms Weidenbach pleaded not guilty to the charge, however, after giving due consideration to all of the evidence tendered, and being mindful of the work endured by “Beach Time” during the earlier stages of the race where Ms Weidenbach had driven forward from the start using the whip and then again placed her drive under pressure when attempting to improve forward three wide towards the 1300 metres, Stewards formed the view that Ms Weidenbach had driven in an unacceptable manner. In determining penalty Stewards took into consideration the relevant factors as outlined in the Harness Racing Victoria (“HRV”) Minimum penalty guidelines, her not guilty plea, her record under this Rule, with several prior offences under Rule 149(2), the level of culpability in this instance and submissions made by Ms Weidenbach on penalty. Ms Weidenbach’s licence to drive in races was suspended for a period of five weeks.

**Plea:** Not Guilty

**DECISION**

Ms Olivia Weidenbach is appealing against the decision of the Stewards that she breached Rule 149(2) – that is, that she drove in a manner which, in the opinion of the Stewards, was unacceptable. The charge arose out of the running of Race 7 over 2,250 metres at Boort on 6 March 2022. Ms Weidenbach was driving “Beach Time”, which was the odds-on favourite in the race. Races over this distance at Boort start just before the finishing post and are over three laps.

Mr Adrian Crowther represented the Stewards in this appeal. Mr Ben Gledhill represented Ms Weidenbach. We thank them both for their assistance and input in relation to this appeal. We have viewed the video of the race many times and both Mr Crowther and Mr Gledhill directed our attention to various aspects of it.

What is apparent to us is the Ms Weidenbach asked a great deal of Beach Time. She was number four at the gate. She pressed forward three wide early, but was then able to drop into the favoured “one out, one back” position. However, during the course of the race, she made a series of runs three wide. She also used the whip frequently, and repeatedly when approaching the winning post for the bell lap. The Stewards estimate that she used the whip 70 or more times. The horse covered an excessive amount of ground. We leave to one side the question of whether she mistook the number of laps. Even without attaching any weight to that, the taking of repeated runs and the frequent use of the whip made it virtually impossible for the horse to win and it was a valiant performance to finish third.

We appreciate the arguments of Mr Gledhill, but the bottom line is that we are of the opinion that this was a poor drive that virtually set the horse an impossible task. It could not be expected to win after making this number of runs and being under the whip to this extent. In short, we are of the view that the Stewards were fully entitled to reach the conclusion which they did – namely that Ms Weidenbach drove Beach Time in a manner which was unacceptable.

The appeal against the finding of the Stewards is dismissed. We shall hear the parties on the question of penalty.

**PENALTY**

The penalty imposed by the Stewards was one of five weeks suspension. Bearing in mind the circumstances and the record of Ms Weidenbach of having been suspended twice for a period of four weeks for breaching this Rule in the last 14 months, the penalty of a five week suspension seems appropriate. Effectively, there was no contest concerning this. Accordingly, the appeal against penalty is dismissed. The period of five weeks suspension, by agreement, is to commence at midnight on Friday, 24 June 2022.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal