13 May 2022

**DECISION**

**RACING VICTORIA**

**and**

**ROBBIE DOWNEY**

**Date of hearing:** 4 May 2022

**Panel:** Judge John Bowman (Chairperson).

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

Mr Matthew Hyland represented Mr Robbie Downey.

**Charge:** Australian Rule of Racing (“AR”) 131(a) states:

A rider must not, in the opinion of the Stewards:

(a) engage in careless, reckless, improper, incompetent or foul riding.

**Particulars of charge:** Robbie Downey (Sacred Kenshi (NZ)) was found guilty of a charge of careless riding under the provisions of AR131(a), the particulars of the charge being over the concluding stages he failed to make sufficient effort to prevent his mount from shifting ground inwards when insufficiently clear of Up All Night (NZ), which in turn was taken in onto Saventino, resulting in Saventino being severely hampered. Robbie Downeys licence to ride in races was suspended for a period to commence at midnight 6 May 2022 and to expire at midnight 13 May 2022. (9 meetings, 2 metropolitan, 7 provincial). In assessing penalty, Stewards deemed the carelessness to be in the low range and took into account his record.

**Plea:** Not Guilty

**DECISION**

Mr Robbie Downey, on appeal you have maintained your plea of not guilty to a charge of careless riding. The appeal arises from a penalty imposed by Stewards in relation to your ride on Sacred Kenshi in Race 3 at Bendigo on Sunday, 1 May 2022. There is no argument but that the incident which forms the basis of the charge occurred very close to the finishing post. Your horse was finishing strongly down the centre of the track. Other horses involved were Up All Night, ridden by Ms Melissa Julius, which was to your immediate inside; Saventino, ridden by Mr Bruno Neto, to her inside; and Lady Whistledown, ridden by Mr Mitch Aitken, was to Mr Neto’s inside and weakening a fraction.

Another horse mentioned, not in the Stewards’ enquiry, but at this hearing, was the ultimate winner, ridden by Mr Billy Egan. I say now that, despite Mr Hyland’s argument, I find that, whilst Mr Egan’s mount shifted out close to the line, it played no role in the key incident.

Your horse was finishing strongly down the outside and under vigorous riding. It was perhaps a long neck past Ms Julius’ mount when it shifted in suddenly. This caused bumping to her, which in turn resulted in some interference to Mr Neto and Mr Aitken.

The key point of the charge, as outlined by Mr Ryan on behalf of the Stewards, in that, as the horse shifted in, you put the whip away, but continued to ride it out, rather than stopping hands and heels riding and straightening Sacred Kenshi.

On your behalf, Mr Hyland’s principal argument was to the effect that you did all that you could to straighten your horse in the second or seconds during which the incident occurred.

These are very much summarises of more detailed submissions.

The bottom line is that I find that the charge of careless riding has been made out. As submitted by Mr Ryan, if only you had ceased riding out the horse and attempted to straighten it, having already put the whip away, no charge may have been available. The essence of the charge lies in your continuing to ride the horse out.

I appreciate that these things happen almost in an instant and that you did put the whip away, but I agree with the Stewards that, by continuing to ride out the horse, in the circumstances the basic elements of careless riding have been proven.

**PENALTY**

I have heard the submissions on penalty. I do not agree with Mr Hyland that a penalty in the nature of a reprimand or a fine is appropriate.

I am of the view that this offence could be described as being very low in the levels of carelessness. You have a good record, although there is one prior offence since you commenced riding here in approximately February of this year. In this instance, I appreciate that you put the whip away. I appreciate the speed at which things happen. By continuing to ride the horse out, you were careless, but at a very low level. The appeal against penalty is upheld. The period of suspension is reduced to one of six meetings and I again emphasise the low level of carelessness.

Mark Howard  
Registrar, Victorian Racing Tribunal