8 July 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**ROBIN LEONARD**

**Date of hearing:** 16 June 2021

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

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

Mr Lance Justice represented Mr Robin Leonard.

Mr Robin Leonard appeared.

**Charge:** Australian Harness Racing Rule (“AHRR”) 168(1)(e) states:

A person shall not before, during or after a race drive in a manner which is in the opinion of the Stewards improper.

AHRR 149(1) states:

A driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field.

**Particulars of charges: Charge 1**

Stewards inquired into the circumstances around driver Robin Leonard’s (Lexus On The Beach) left foot being out of the sulky footrest in the score up resulting in his left foot making contact with the near foot of his drive on repeated occasions during the latter part of the score up. Mr Leonard pleaded guilty to the charge pursuant to Rule 168(1)(e), a driver shall not drive in a manner which in the opinion of stewards is improper. In determining penalty stewards considered the HRV Minimum Penalty Guidelines, the number of occasions in which contact occurred, Mr Leonard’s immediate guilty plea and his clear record under the rule. Mr Leonard was fined $500 in addition to a two week suspension of his driver’s licence being imposed to commence at midnight 26 February 2021.

**Charge 2**

Mirakuru, which raced in the position outside the leader and withstood a challenge for that position in the early and middle stages of the event from Lexus On The Beach, tired from the 400m to finish beaten 64m. A post-race veterinary examination revealed no apparent abnormalities. Lexus On The Beach, which raced three wide, challenged for the position outside the leader in the early and middle stages and raced three wide for the majority of the event before tiring to finish in last placing beaten 119m. A post-race veterinary examination revealed no apparent abnormalities. Stewards queried the driving tactics of both drivers Stephen Cleave (Mirakuru) and Robin Leonard (Lexus On The Beach) and after taking into consideration stewards observations, the evidence from both drivers and the official race replays Mr Leonard was found guilty of a charge pursuant to Rule 149(1), a driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field. The particulars of the charge were that Mr Leonard engaged in an extended three wide challenge around the first turn and then continued his challenge in the back straight during a faster than average lead time when there was no realistic prospect of obtaining the position outside the leader and failed to take the reasonable and permissible measure during that stage of the race of restraining his drive to give it some respite, actions which in the opinion of stewards were detrimental to the finishing position of his own horse and also to that of Mirakuru given its exposed race form. Mr Leonard’s licence to drive in races was suspended for a period of 8 weeks to commence at midnight 13 March 2021. In determining penalty Stewards considered HRV Minimum penalty guidelines, Mr Leonard’s not guilty plea, his record and driving frequency and the significant level of culpability of his drive. Mr Leonard was apprised of his rights of appeal. Stewards could not be satisfied that the tactics of driver Stephen Cleave were so unreasonable as to warrant action being taken against his licence.

**Plea:** Guilty

**DECISION**

1. Mr Robin Leonard, in this appeal you are pleading guilty to two offences. These could be summarised as being a breach of Australian Harness Racing Rule (“AHRR”) 168(1)(e) – improper driving – and AHRR 149(1) – not taking all reasonable measures to give the horse that you were driving full opportunity to win or obtain the best possible placing. Both charges arose out of your drive of “Lexus On The Beach” in Race 5 at Geelong on 26 February 2021. When first charged, you pleaded guilty to the breach of AHRR 168(1)(e), but not guilty to the breach of AHRR 149(1). The Stewards found both charges proven and imposed a penalty of $500 and two weeks suspension in relation to the breach of AHRR 168(1)(e) and eight weeks suspension, cumulative, in relation to the breach of AHRR 149(1). As stated, you are now pleading guilty to both charges. Before us you had the important assistance of Mr Lance Justice representing you.
2. We shall deal with the charges in what could be described as reverse order. That is because, in light of your guilty plea to the breach of AHRR 149(1), the parties effectively agreed to a reduction of the period of suspension that had been imposed from eight weeks to six weeks. Whilst we are not bound by any such agreement, we certainly take into account what the Stewards suggest and what Mr Justice had to say. We agree that there should be a reduction in the penalty imposed as a result of the guilty plea, and we agree that it should be as suggested. Accordingly, the appeal in relation to the breach of AHRR 149(1) is allowed and the penalty is reduced to six weeks suspension. We would only add that Mr Crowther, on behalf of the Stewards, referred to the drive as being “atrocious” and we would agree. You persevered three wide outside the lead for an inordinate distance and Lexus On The Beach finished a distant tailed off last. Six weeks suspension with a guilty plea seems to us to be appropriate.
3. In relation to the breach of 168(1)(e), this involved you effectively kicking Lexus On The Beach on the hind leg multiple times, before the start of the race, thereby firing it up. This was a clear and quite gross breach of AHRR 168(1)(e).
4. We have considered what you and Mr Justice have told us. You are effectively a hobby trainer and driver, having a very small number of drives per year. You work as a director of a charity, on a modest wage, and also do some work as a volunteer. You are aged 66 years. You have substantial financial obligations, including a mortgage and have two children, one adult, living with you. Harness racing is an important distraction or hobby for you. No relevant prior offences of any magnitude are alleged against you.
5. We take these matters into account. However, we agree with the Stewards that your breach of AHRR 168(1)(e) was a serious one and we agree that the penalty imposed is appropriate. Matters of general deterrence should be borne in mind.
6. The appeal in relation to AHRR 168(1)(e) is dismissed. We disagree with the proposition that the penalty imposed should be served concurrently. Quite illegal behaviour prior to the start may have fired up the horse, but that does not excuse your very bad drive.
7. In our opinion, the penalties should be cumulative. The end result is that you are fined $500 and suspended for a total period of eight weeks.
8. The parties agree that the period of suspension is to commence at midnight tonight.

Mark Howard
Registrar, Victorian Racing Tribunal