2 May 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RODNEY LAKEY**

**and**

**KASEY KENT**

**and**

**DAVID MORAN**

**Date of hearing:** 26 April 2023

**Panel:** Judge John Bowman (Chairperson) and Dr Andrew Gould.

**Appearances:** Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Rick Jones represented Mr Rodney Lakey, Ms Kasey Kent and Mr David Moran.

**Charge:** Australian Harness Racing Rule (“AHRR”) 213(b) states:

 A person shall not:

 (b) have in his possession any harness, gear, equipment, device, substance or any other thing capable of inflicting suffering on a horse.

 Note: AHRR 255A(1)(a) states:

 (1) For the purpose of the Rules:-

(a) A person shall be deemed to have in their possession any animal or item of property which is found in or on their registered training establishment, artificial breeding station, stud, stable, motor vehicle, float or their place of residence.

**Particulars of charge: Rodney Lakey**

1. You were, at all relevant times, a trainer and driver licensed by HRV.
2. On 11 May 2022, HRV Stewards conducted a stable inspection at your stables located at the Shepparton Harness Racing Club training complex.
3. During the stable inspection, the HRV Stewards located gear or equipment capable of inflicting suffering on a horse, being a whip modified with “whipper snipper” cord attached to the tip.
4. You did have in your possession at your stables gear or equipment capable of inflicting suffering on a horse.

**Kasey Kent**

1. You were, at all relevant times, a trainer licensed by HRV.
2. On 11 May 2022, HRV Stewards conducted a stable inspection at your stables located at the Shepparton Harness Racing Club training complex.
3. During the stable inspection, the HRV Stewards located gear or equipment capable of inflicting suffering on a horse, being a whip modified with “whipper snipper” cord attached to the tip.
4. You did have in your possession at your stables gear or equipment capable of inflicting suffering on a horse.

**David Moran**

1. At all relevant times prior to 18 February 2022, you were a licensed trainer and driver with your stables located at the Shepparton Harness Racing Club training complex.
2. On 11 May 2022, HRV Stewards conducted a stable inspection at the stables and located gear or equipment capable of inflicting suffering on a horse, being a whip modified with “whipper snipper” cord attached to the tip (the Modified Whip).
3. In an interview with HRV Stewards on 9 June 2022, you gave evidence to the effect that you made the Modified Whip and that it had been at the stables for about two years.
4. You did have in your possession at your stables gear or equipment capable of inflicting suffering on a horse.

**Plea:** **Rodney Lakey:** Guilty

 **Kasey Kent:** Guilty

 **David Moran:**  Guilty

**DECISION**

These three persons have been charged with a breach of Australian Harness Racing Rule (“AHRR”) 213(b) – namely, possession of equipment capable of inflicting suffering on a horse. Each person has pleaded guilty to the charge.

The equipment in question was a modified whip with a “whipper snipper” cord attached to the tip. It was found by Stewards on a stable inspection on 11 May 2022. It was quite openly displayed in a whip rack.

The background facts are scarcely in dispute. Each is a licensed person for the purposes of the charge. Mr David Moran had originally modified the whip in the manner described. It was used by him for the purpose of cracking it in the vicinity of sparrows that nested inside the stable roof. It was used for no other purpose. The modification of the whip had taken place a couple of years prior to the Stewards inspection.

Mr Rodney Lakey is a trainer and driver, who started using the stables in more recent times. He was aware of the presence of the whip in the rack and the purpose for which it had been used. He had no other contact with it. He has been in the industry for many years.

Ms Kasey Kent is a licensed trainer. She also works full time as a physiotherapist. She had only the one horse at the stables. There is no suggestion that she was ever aware of the existence of the modified whip. Nonetheless, she was a licensed trainer using stables in which a modified whip was to be found on a rack. For that reason, she is pleading guilty, although her offence is really on of lack of being observant.

Animal welfare and the perception of it are vitally important issues. In the unusual circumstances of the present case and the fact that full responsibility has been accepted by those charged, it seems to us that the penalties suggested by the Stewards are, with one exception, fair and reasonable. Indeed, insofar as Mr Moran is concerned, there was no challenge to it by Mr Jones of his behalf and only comparatively minor challenges in respect of Mr Lakey and Ms Kent.

The penalties at which we have arrived in these cases, which we repeat are quite unusual, if not unique, are as follows: -

In the case of Mr Moran, who assumed full responsibility, the penalty is that agreed upon by the parties, namely a fine of $1,000, with $500 suspended for 12 months.

In the case of Mr Lakey, who had knowledge of the existence of the whip and the bird-scaring purpose for which it was used, the penalty suggested by the Stewards, namely a fine of $500 with $250 suspended for 12 months, is imposed.

Ms Kent had no knowledge of the existence of the whip. The worst that she can be accused of is not being particularly observant on her visits to the stables. That does not mean that the charge fails, and indeed she has pleaded guilty to it. In our opinion, she should be fined $500, but that fine is fully suspended for a period of 12 months.

We are confident that none of the parties will offend again in a relevant fashion during that period and that the adjourned penalties will not need to be re-activated.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal