15 March 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RYAN DUFFY**

**Date of hearing:** 2 March 2021

**Panel:** Magistrate John Doherty and Mr Des Gleeson.

**Appearances:** Mr Shane Larkins appeared on behalf of the Stewards.

Mr Rick Jones represented Mr Ryan Duffy.

**Charge:** Australian Harness Racing Rule (“AHHR”) 156(2)(a) states:

A driver shall only apply the whip in a wrist only flicking motion whilst holding a rein in each hand with the tip of the whip pointed forward in an action which does not engage the shoulder.

 AHRR 168(1)(b) states:

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

AHRR 163(1)(a)(iii) states:

1. A driver shall not -

(a) cause or contribute to any

 (iii) interference;

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 charge: Charge 1**

 Ryan Duffy (Mornings) pleaded guilty to a charge under AR156(2)(a) for applying the whip to his drive with more than a wrist flicking action over the concluding stages. Mr Duffy was subsequently fined $400. In adopting this approach stewards were mindful that Mr Duffy was recently fined $200 under similar circumstances.

**Charge 2**

Driver Ryan Duffy (Interest Me) was found guilty of a charge under Rule 156(2)(a) for his unapproved whip use in that he applied the whip on numerous occasions in the home straight with more than a wrist only flicking action. Specifically Mr Duffy engaged his elbow which resulted in his forearm being raised beyond 45 degrees relative to the surface track and in doing so applied the whip with overt force. As this was Mr Duffy’s fourth applicable offence during September, in accordance with the HRV Minimum Penalty Guidelines, Mr Duffy’s licence to drive in races was suspended for a period of 2 weeks to commence 29 September 2020.

**Charge 3**

 Driver Ryan Duffy (Solesseo Matuca) was found guilty to a charge under Rule 168(1)(b) which states: A person shall not before, during or after a race drive in a manner which in the opinion of the stewards is (b)reckless. The particulars of the charge being that Mr Duffy directed his drive inwards leaving the back straight on the first occasion when never clear of Mr McCallum’s drive (Relentless Me) and placed significant pressure on that runner resulting in Relentless Me shifting in and contacting marker pegs. Mr Duffy continued to apply downward pressure to Relentless Me for the majority of the first turn resulting in Mr McCallum having to check his drive and Relentless Me racing roughly and losing its rightful racing position. Mr Duffy’s licence to drive in races was suspended for a period of 8 weeks to commence 22 January 2021. In considering penalty stewards took into consideration the HRV Minimum Penalty Guidelines in relation to this rule and Mr Duffy’s good record in relation to this rule having never been charged previously under this rule.

 **Charge 4**

 Ryan Duffy, driver of Aldebaran Dianna, was found guilty of a charge under Rule 163(1)(a)(iii) for causing interference. The particulars of the charge being that shortly after the start when approaching the winning post on the first occasion, Mr Duffy permitted that filly to shift inwards when not sufficiently clear of Sonnyboy (Jack Sullivan), resulting in that gelding making contact with the near side sulky wheel of Aldebaran Dianna causing Sonnyboy to be checked and break gait. Mr Duffy’s licence to drive in races was suspended for a period of two weeks to commence midnight 10 November 2020. In assessing penalty in accordance with the HRV Minimum Penalty Guidelines, stewards took into account the circumstances of the incident which was classified as a first turn offence, assessed to be mid-range interference and Mr Duffy’s applicable record as well as the frequency in which he drives in races.

 **Charge 5**

Ryan Duffy, driver of Bettor Be The Bomb, was found guilty of a charge under Rule 149(1) in that approaching and immediately passing the 200m he directed Bettor Be The Bomb out from following Arden Voyager NZ when it was reasonable and permissible to remain following that runner and utilise the sprint lane which would have afforded Bettor Be The Bomb with a clear an unimpeded run over the concluding stages and rather than availing himself of that opportunity he directed Bettor Be The Bomb out to follow Out To Play which resulted in Bettor Be The Bomb being held up until inside the final 100m. In assessing penalty Stewards considered the relevant considerations as outlined within the HRV Stewards Minimum Penalty Guidelines placing particular weight on the degree of culpability (mid-range), Mr Duffy’s high driving frequency and his clear offence record for purposes of the guidelines. Stewards accordingly imposed a 6 week suspension of Mr Duffy’s licence to drive in races commencing midnight 7 December 2020.

**Plea:** Guilty

**DECISION**

In respect of the five appeals before the Victorian Racing Tribunal (“VRT”), Mr Ryan Duffy has entered pleas of guilty to each charge.

The facts supporting each charge are agreed between the Appellant and the Harness Racing Victoria (“HRV”) Stewards.

The Appellant does not require any evidence to be tendered in relation to the rule breaches alleged against him.

Mr Jones, on behalf of Mr Duffy, agrees and accepts that the penalties suggested by the HRV Stewards are appropriate under the circumstances and in accordance with HRV minimum penalty guidelines.

The Stewards recommended that due to Mr Duffy now pleading guilty to all charges, the penalties originally imposed be adjusted as follows:

1. Appeal in relation to Australian Harness Racing Rule (“AHHR”) 156(2)(a) at Ballarat: $400 fine to remain unchanged.
2. Appeal in relation to AHRR 156(2)(a) at Echuca: 2 weeks suspension of driving licence to remain unchanged.
3. Appeal in relation to AHRR 168(1)(b): 8 weeks suspension of driving licence be reduced to 6 weeks suspension.
4. Appeal in relation to AHRR 163(1)(a)(iii): 2 weeks suspension of driving licence to remain unchanged.
5. Appeal in relation to 149(1): 6 weeks suspension of driving licence to be reduced to 4 weeks suspension.

This is a total of 14 weeks suspension and a $400 fine.

HRV Stewards acknowledge that the delays in this case were not caused by Mr Duffy and recognise that there should be some concurrency in terms of penalty because of guilty pleas being entered, the charges being heard together and due to the hearings being delayed.

After hearing from Mr Shane Larkins on behalf of the HRV Stewards and Mr Rick Jones for Mr Duffy, the Tribunal indicated to the parties that an appropriate reduction of the 14 week penalty suggested by HRV Stewards would be an effective period of licence suspension for Ryan Duffy of 10 weeks.

Both HRV Stewards and Mr Jones accept the appropriateness of a 10 week suspension and $400 fine and have agreed to conclude these five appeals on that basis without further submissions.

Both HRV Stewards and Mr Jones propose that the agreed facts be adopted by this Tribunal as their binding decision.

Stewards have requested that the unique circumstances regarding the delays and the period of penalty being served concurrently be outlined in the decision and ought not be seen by the racing industry as a precedent.

Formally, this Tribunal endorses the penalties as suggested by HRV (above).

The penalty for appeal 2 (AHRR 156(2)(a) at Echuca) is to be served concurrently with the penalty outlined for appeal 3 (AHRR 168(1)(b)). The penalty for appeal 4 (AHRR 163(1)(a)(iii)) is to be served concurrently with the penalty outlined for appeal 5 (AHRR 149(1)). The total effective period of licence suspension is 10 weeks.

Both HRV Stewards and Mr Jones agree that the period of 10 weeks licence suspension of Mr Duffy’s driving licence will commence midnight Saturday, 6 March 2021.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal