19 July 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**SCOTT EWEN**

**Date of hearing:** 12 July 2022

**Panel:** Judge Graeme Hicks (Deputy Chairperson) and Ms Maree Payne.

**Appearances:** Mr Grant Adams appeared on behalf of the Stewards.

Mr Lance Justice represented Mr Scott Ewen.

Mr Scott Ewen attended the hearing.

**Charge:** Australian Harness Racing Rule (“AHRR”) 163(1)(a)(iii) states:

(1) A driver shall not -

(a) cause or contribute to any

(iii) interference.

**Particulars of charge:** Scott Ewen, the driver of “Bulletproof Boy”, pleaded guilty to a charge under Rule 163(1)(a)(iii) for causing interference, being that he permitted his gelding to shift in when not clear of “Boots Electric NZ” on the entry to the first turn resulting in the above mentioned interference. Mr Ewen had his licence to drive in races suspended for a period of three weeks which was ordered to commence at midnight on 23 April 2022 and to expire on 15 May 2022, on which day he may drive, in addition to a $250 fine. When considering penalty stewards were mindful of the degree of interference, Mr Ewen’s guilty plea, driving record, the degree of carelessness shown by Mr Ewen and that this was considered a feature event.

**Plea:** Not Guilty

**DECISION**

Mr Scott Ewen, you are appealing against the decision of the Stewards in relation to an incident on 23 April 2022 at Mildura as set out above. You are appealing in relation to the finding of guilty and to the penalty imposed.

You have pleaded not guilty to breaching Australian Harness Racing Rule (“AHRR”) 163(1)(a)(iii), which states “a driver shall not cause or contribute to any interference”.

The particulars of the charge are that in Race 8 at the Mildura harness racing meeting held on 23 April 2022, you caused or contributed to interference entering the first turn by permitting your horse, “Bulletproof Boy”, to shift in down the track when not clear of “Boots Electric” driven by Mr Nathan Jack, resulting in Boots Electric being checked and breaking gait.

During the Stewards inquiry held on 23 April 2022, Mr Jack stated he was in the three lane position and holding his ground and that your horse, Bulletproof Boy, was in advance of him and that you shifted in down track causing severe interference to his horse when not one metre clear of the front legs of his horse. You stated to the inquiry that in fact it was Mr Jack’s horse that shifted out from his line and that Mr Jack’s horse tried to push out and you were only holding your line.

We have watched video replays of the race from several angles and heard submissions from Mr Grant Adams on behalf of the Stewards and from Mr Lance Justice on behalf of yourself.

In our opinion, the camera angles at Mildura for harness horses racing into the first turn do not, in this case, give much help as to who shifted in in the case of your horse, or who shifted out in the case of Mr Jack’s horse. Having seen the video replays, it does look to us that in fact it was Mr Jack’s horse that shifted out.

However, simply put on the evidence, we are not comfortably satisfied that the charge has been proven and we find Mr Ewen not guilty of the charge. The appeal is upheld.

Kathleen Scully
Acting Registrar, Victorian Racing Tribunal