1 December 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**SIMON JARDINE**

**Date of hearing:** 29 November 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr Andrew Gould.

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

Mr Simon Jardine represented himself.

**Charge:**  Australian Harness Racing Rule (“AHRR”) 173(1) states:

(1) A driver shall not bet in a race in which the driver participates.

**Particulars of charges:** **Charge 1**

1. At all relevant times, you were a licensed driver with HRV, and a person bound by the Australian Harness Racing Rules.
2. On 28 August 2020 at approximately 3:15pm, you placed a multi bet on your TAB account, in which a leg of your multi bet was for “Heaven Attracts” to win Race 5 at the Mildura harness racing meeting on the same date.
3. As the driver of Heaven Attracts in Race 5 at the Mildura harness racing meeting on 28 August 2020, you did bet in a race in which you participated.

**Charge 2**

1. At all relevant times, you were a licensed driver with HRV, and a person bound by the Australian Harness Racing Rules.
2. On 28 August 2020 at approximately 3:16pm, you placed a multi bet on your TAB account, in which a leg of your multi bet was for “Heaven Attracts” to win Race 5 at the Mildura harness racing meeting on the same date.
3. As the driver of Heaven Attracts in Race 5 at the Mildura harness racing meeting on 28 August 2020, you did bet in a race in which you participated.

**Charge 3**

1. At all relevant times, you were a licensed driver with HRV, and a person bound by the Australian Harness Racing Rules.
2. On 2 October 2020, you placed a bet on your Sportsbet account for “Penny Snatcher” to win Race 10 at the Mildura harness racing meeting on the same date.
3. As the driver of Penny Snatcher in Race 10 at the Mildura harness racing meeting on 2 October 2020, you did bet in a race in which you participated.

**Pleas:** Guilty to all charges

**DECISION**

1. Mr Simon Jardine is a licensed Grade A harness racing driver. He was at all material times aware of Australian Harness Racing Rule (“AHRR”) 173(1). The Rule prohibits a driver from placing a bet in a race in which he participates.
2. Mr Jardine drove “Heaven Attracts” in Race 5 at Mildura on 28 August 2020. He placed two multi bets at 3.15 pm and 3.16 pm respectively which included Heaven Attracts as one of the legs. Heaven Attracts won, but his multi bets were unsuccessful due to the failure of one or more of the other legs. The same factual scenario is relevant to a bet placed at 3.16 pm. It was also a multi bet which involved Heaven Attracts. It also lost too. The first bet was to the value of $120, attempting to win $3,354. The second bet was for $124, attempting to win $3,033. These two bets are the subject of Charges 1 and 2. There are guilty pleas to both charges. We find the charges proven. We note that early guilty pleas were entered.
3. The third charge concerns a $50 bet placed at 5.07pm on 2 October 2020. It was on a horse in Race 10 at Mildura driven by Mr Jardine and called “Penny Snatcher”. There is also a guilty plea to this charge. We find it proven. The guilty plea was an early guilty plea.
4. In an interview Mr Jardine told Stewards about these matters. He said that he was stupid in involving Heaven Attracts in his multi bets on 28 August 2020. In a Stewards interview on 25 August 2021 he said that he understands the Rules. He did not recall the bet placed on 2 October 2020, but does not deny it was placed by him. He referred to it as being a small bet, but acknowledged that it was in breach of the Rules. He said that he would have done what he did without thinking about it.
5. In setting a penalty, we take into account general and specific deterrence and the importance of maintaining and ensuring integrity in the industry. We take into account Mr Jardine’s early guilty pleas, his remorse and good relevant prior record, as well as his cooperation with the Stewards.
6. The Stewards suggest a minimum penalty of a $1,000 fine for the offence under AHRR 173(1). We are informed by their guidelines, but not bound by them. In all the circumstances, on Charge 1 we impose a penalty of a $750 fine. On Charge 2, we impose a $750 fine, but make it wholly concurrent with the penalty imposed on Charge 1. On Charge 3, we impose a $750 fine. That makes a total fine of $1,500. These figures are consistent with a recent penalty in the similar case of HRV v John Garnaut, published on 18 October 2022 and heard on 12 October 2022. In that matter, there were two charges similar to the first two charges currently before the Tribunal. They were with two win and place bets placed in quick succession in the same race and on the same horse. There was no separate further incident of betting equivalent to Charge 3 currently before the Tribunal. The penalties we have imposed are slightly higher than in the matter of Mr Garnaut, given that the betting amounts were higher.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal