2 July 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MS SOFIA ARVIDSSON**

**Date of hearing:** 23 June 2020

**Panel:** Judge John Bowman (Chairperson) and Mr Robert Abrahams.

**Appearances:** Mr Nicholas Murray appeared on behalf of the Stewards.

 Mr Damien Sheales appeared on behalf of Ms Arvidsson.

**Charge:** Australian Harness Racing Rule 166(1) states except in the final lap of a race a horse shall not enter any part of the sprint lane in an attempt to pass other horses or improve its position.

**Particulars of charge:** The particulars of the charge being that passing the 1000m, Ms Arvidsson directed Rock Albert inwards from a trailing position three horses back along the marker pegline and activated removable gear on the gelding to further advance her position whilst in the sprint lane to the inside of Exciteusrubycee (James Herbertson), prior to then restraining Rock Albert passing the winning post inside of the final lap to regain her original position. As a consequence of this incident, Exciteusrubycee and Idyllic Princess were inconvenienced. Ms Arvidsson’s licence to drive in races was suspended for a period of five (5) weeks to commence midnight 17 April 2020. In assessing penalty Stewards acknowledged Ms Arvidssons’ guilty plea, immediate remorse and admission of her error, her relative inexperience in race driving and the serious effect that such actions can have on the conduct of a race. In not enacting rule 166(2), Stewards acknowledged that Rock Albert had ultimately placed 6th of 7 horses and had not seemingly gained any unfair advantage for stakebearing purposes.

**Plea:** Not Guilty

**DECISION**

This appeal involves Race 2 at Stawell on 13 April 2020. Ms Sofia Arvidsson was the driver of Rock Albert. She is charged with a breach of Rule 166(1). That Rule prohibits entry of a horse into any part of the sprint lane in an attempt to pass other horses or improve its position.

The Stewards allege that Rock Albert improved its position by using the sprint lane after the horses swung into the home straight with a lap to go. It continued in the sprint lane until the lane ended after swinging out of the home straight. Rock Albert ultimately finished at the rear of the field and there is no application on foot pursuant to Rule 166(2) in relation to amendment of the finishing order.

Ms Arvidsson is an inexperienced concession driver and, as pointed out by Mr Sheales on her behalf, had only had something in the order of 50 drives at the time of this race. She had very little previous experience on smaller tracks such as Stawell, although, of course, it is her responsibility to familiarise herself with the features of a track on which she is to drive.

Ms Arvidsson has pleaded guilty from the outset. We accept, as do the Stewards, that she made the simple, but important, error of mistaking the number of laps. A race over this distance at Stawell takes the field into the home straight and the sprint lane twice. She switched to the sprint lane, reversed the whip, released the deafeners and urged her horse forward when there was still a lap to go. Her mistake was drawn to her attention, doubtless forcibly, by the driver or drivers on her outside.

She realised the mistake that she had made and was able to re-join the field, effectively in the very position that she had vacated - 3 back on the rails. We accept that whilst this may have caused some interference, it was not major. It was certainly not to the degree seen in a couple of the races we have been directed to by Mr Sheales. Further, the whole manoeuvre was not deliberate, as it may have been in a couple of those other races.

This was an embarrassing error by an inexperienced driver. She took full responsibility for it. It should not have occurred. It was rectified, with a modest amount of interference. We are not of the view that the finishing order of the race was adversely affected.

We are of the view that the penalty imposed is excessive in the circumstances. This is particularly so when a couple of the penalties for similar offences are borne in mind and the suggested penalties for some serious race day offences are considered. Rule 149(1) and (2) are examples.

We are of the view that some period of suspension is warranted. We do not accept Mr Sheales submission that a warning or $100 fine is appropriate. General deterrence is of some importance, in that drivers, and particularly inexperienced and concession drivers, must familiarise themselves with the layout of the track and the distance of the race.

We note again the immediate plea of guilty, the embarrassing nature of the error made by Ms Arvidsson, the fact that the situation was remedied without great interference and the circumstances generally. The appeal is upheld and the penalty is varied to 2 weeks suspension.

Mark Howard
Registrar, Victorian Racing Tribunal