31 May 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**STEVEN MATSON**

**Date of hearing:** 27 April 2021 and 18 May 2021

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Thomas Penny appeared on behalf of the Stewards.

Mr Steven Matson represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 168(1)(e) states:

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

(e) improper

**Particulars of charges:** Steven Matson, driver of “Keepcrackingjokes” was charged and found guilty under Rule 168(1)(e). The particulars of the charge being that Mr Matson did allow his left foot to come away from the sulky footrest and be placed within the vicinity of the filly’s near-side hind leg and in a position to make contact with the near-side hide leg, over the concluding stages of the event. In assessing penalty in accordance with the Harness Racing Victoria (“HRV”) Minimum Penalty Guidelines, Stewards took into account the advertised penalties for such offences and the need for consistent penalties to be both a specific and general deterrent from such conduct and therefore the minimum penalty for such offence was imposed, being a fine of $500.

**Plea:** Not guilty

**DECISION**

Mr Steven Matson has pleaded not guilty to a single charge under Australian Harness Racing Rule (“AHRR”) 168(1)(e), which states a person shall not before, during or after a race drive in a manner which is, in the opinion of the Stewards, improper.

The particulars to support the charge are as follows. Mr Matson was the driver of “Keepcrackingjokes” in Race 9 at the Shepparton Harness Racing Meeting on 23 December 2020. It is alleged by Harness Racing Victoria (“HRV”) Stewards that, in the home straight on the final occasion, Mr Matson allowed his left foot to come away from the sulky footrest and, in doing so, it came within close proximity to his horse’s near side hind leg and in a position to make contact with that leg.

In answer to the allegation, Mr Matson has said that, as he hit his horse with the whip, his foot slipped out of the footrest and fell down. He has said that he was quick to place his foot back in the footrest. In the Stewards inquiry, Mr Matson told Stewards that he was not used to the cart that he was driving in, that he does not drive frequently these days and that he finds it hard to “put his legs up”.

Mr Thomas Penny, on behalf HRV Stewards, has tendered in evidence the transcript of the inquiry held after the race, a decision of the Tasmanian Racing Appeals Board in the matter of A. Rawlings, HRV’s Minimum Penalty Guidelines and replays of the subject race from the main camera angle and head on vision.

It is clear to the Tribunal that Mr Matson’s left foot is down from the footrest at the two minutes and 19 seconds point of the race for a very short period of time, perhaps one second. It occurs whilst he is whipping his horse very close to the finish line. He had been whipping the horse by his own admission for perhaps 100 metres from the finish line. What is apparent is that there is no other body movement consistent with his left foot accidentally slipping out of the footrest. It is not proved that Mr Matson’s foot has contacted his horse and it is not necessary for that to happen to sustain the charge. We do not accept that it was a slip that caused Mr Matson’s foot to fall. In particular, that hypothesis is not supported by the video evidence.

Reference has been made by Mr Matson to other drivers whose feet have left the footrest and they have been either cautioned or no action taken by Stewards. There may be various reasons for these outcomes which the Tribunal is not privy to, but essentially, each case will depend on its own set of circumstances. Factors, such as becoming genuinely unbalanced and lack of experience, are matters that are taken into account. On this occasion, it is noted that Mr Matson is an experienced driver in a very tight finish. We do not accept his version that his foot fell because of a genuine slip. We are comfortably satisfied that the charge is sustained.

**PENALTY**

In so far as penalty is concerned, Mr Penny has referenced Mr Matson’s offence record, Minimum Penalty Guidelines and reasons for the imposition of the original penalty. This penalty was imposed shortly after the same penalty was issued for an earlier breach of the same Rule.

In our view, a financial penalty is appropriate. That fine is fixed at $500. It takes account of HRV Stewards submissions, the culpability of Mr Matson, his offence record and personal circumstances. No discount has been factored because of Mr Matson’s plea of not guilty.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal