17 May 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**TAYLOR YOUL**

**Date of hearing:** 9 May 2023

**Panel:** Judge John Bowman (Chairperson).

**Appearances:** Mr Adrian Crowther appeared on behalf of the Stewards.

Mr Anthony Butt represented Ms Taylor Youl.

**Charge:** Australian Harness Racing Rule (“AHRR”) 156(3) states:

(3) A driver shall not use a whip in an unapproved manner.

**Particulars of charge:** Stewards completed an Inquiry into the number of whip strikes applied by Taylor Youl (“Kitch Macray”). Ms Youl pleaded guilty to a charge pursuant to Rule 156(3). Ms Youl's licence to drive in races was suspended for a period of 13 days, which was inclusive of a suspended portion of a previous penalty. In determining penalty Stewards considered HRV Minimum Penalty guidelines and Ms Youl’s poor recent record under this rule. A start date for the suspension is to be advised.

**Plea:** Guilty

**DECISION**

Ms Taylor Youl, you are pleading guilty to a breach of Australian Harness Racing Rule (“AHRR”) 156(3), which relates to whip use. The offence occurred in Race 1 at Ballarat on 26 April 2023. You were driving “Kitch Macray”, which won the race. The Stewards identified that you had used the whip 21 or 22 times, the limit of such use being 20 times. It is not suggested that there was anything improper in the manner in which you used the whip. The Stewards suspended you for a total of 13 days. The breakdown of that, as shall be discussed, was a 10 day suspension for this offence, plus a three day suspension for breaching what could be described as a suspended penalty, which allegedly has been activated. I shall return to that.

You have a poor record in relation to whip offences. Mr Butt, on your behalf, stressed that you have become a busy driver and that your record is improving. He also referred to the mentoring which you undertook and which was administered by Mr John Caldow. However, the fact remains that your record has been poor, with, if I understand it correctly, some four offences this calendar year prior to this offence. The penalties have been increasing.

The penalty imposed for this offence on 26 April 2023 was suspension for 10 days. I say now that this penalty seems to me to be fair and appropriate, given your poor record in the preceding months.

However, to this 10 day suspension was added a three day suspension held over for 28 days. This essentially related to your monitoring by Mr Caldow. It is in relation to this that I have some concerns. You were informed about it by an email dated 28 March 2023. You were told that “should you reoffend in the next 28 days, the 3-day suspension will be added to any penalty imposed”.

The offence which is said to have activated this suspended penalty occurred in Race 1 on 26 April 2023. By my reckoning, that amounts to 29 days, 1 day after the “next 28 days” of which you were informed in the email of 28 March.

I appreciate that the Stewards state in the same email that they will accede to a request that the suspension commence on 1 April 2023. However, the reference to re-offending in the email of 28 March and the penalty of the further three days is clearly stated to be “the next 28 days”.

It is all a little confusing. It may be that I have misinterpreted or misunderstood the situation. However, in the circumstances, I am of the view that the additional three day suspension should not be added on to the basic penalty of 10 days.

The bottom line is that the appeal is upheld and the penalty is reduced to one of 10 days to commence at midnight on 10 May 2023.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal