3 November 2021

**DECISION**

**RACING VICTORIA**

**and**

**ZAC SPAIN**

**Date of hearing:** 28 October 2021

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

**Appearances:** Mr Darren Triandafillou appeared on behalf of the Stewards.

Mr James Winks represented Mr Zac Spain.

**Charge:** Australian Rule of Racing (“AR”) 131(a) states:

A rider must not, in the opinion of the Stewards:

(a) engage in careless, reckless, improper, incompetent or foul riding.

**Particulars of charge:** Zac Spain was found guilty of a charge of careless riding under the provision of AR131(a.) The careless riding being that he rode his mount out from behind Bowrider where there was insufficient room to do so and bumped Jenniferwish out onto The Psychologist resulting in the The Psychologist being inconvenienced and Jenniferwish becoming unbalanced.

**Plea:** Not Guilty

**DECISION**

Mr Zac Spain, you have pleaded not guilty to a charge of careless riding. It involves your ride on Dangers in Race 2 at Sale on Sunday, 24 October 2021. As stated, you were riding Dangers. The other jockeys and horses involved were Jenniferwish, ridden by Mr Daniel Moor and Bowrider, ridden by Mr Damien Thornton.

The incident the subject of the charge occurred in the vicinity of the 200 metre mark or perhaps a little closer to the finish line. We have viewed the video many times and involving many angles. Perhaps the most helpful angle is the head on video. In our opinion, what happened is as follows. Mr Thornton’s mount was leading. You were behind him. Mr Moor’s mount was to your outside one off the rail and ahead of you. You were pushing up on the inside of it. Both you are Mr Moor were going better than Mr Thornton, but Mr Moor was in essence holding you in a pocket behind Mr Thornton. You left the rails and steered your horse into the narrow gap between Mr Thornton and Mr Moor’s horse. We are of the view that in so doing you made contact with Mr Moor’s horse, he apparently giving no ground and holding you in the pocket. You then moved out more abruptly and forcefully and you effectively bumped Mr Moor out of the way, causing his horse to make contact with the horse on its outside. Having got out of the pocket, you went on to win the race, beating Mr Moor’s mount by three quarters of a length. There was a protest, which was dismissed.

Mr James Winks on your behalf argued that effectively you had established the run between Mr Thornton and Mr Moor and had clear air. Mr Thornton then moved out, forcing you onto Mr Moor’s horse. We accept that Mr Thornton’s horse shifted out to a small degree. It may have aggravated the contact, but we are of the view that its contribution was minor. You had already forced your horse into a gap, so as to take a run that was not there. This caused significant contact with Mr Moor’s horse, bumping it onto the horse on its outside. As stated, we are satisfied that in essence your forced a run that was not there and you gave Mr Moor’s horse a substantial bump in so doing.

In our view, the case of careless riding has been made out. The appeal is dismissed and we shall hear the parties on the question of penalty.

**PENALTY**

The Stewards imposed a penalty of a period of 12 meetings. You are appealing in relation to that. We take into account the fact that a minor contribution was made to the interference by Mr Thornton’s mount. We also note that you have had three careless riding penalties in the last 12 months prior to this case. As stated by Mr Triandafillou on behalf of the Stewards, your record could only be described as fair. We do not categorise offences such as this as being in a range – a “range” is only a guide used by the Stewards. However, we do think that this was interference and carelessness above what could be described as the low range. We consider the penalty of a 12 meeting suspension to be fair and appropriate and the appeal is dismissed.

Mark Howard  
Registrar, Victorian Racing Tribunal