9 June 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**ABBY SANDERSON**

**Date of hearing:** 7 June 2023

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Maree Payne.

**Appearances:** Mr Daniel Borg appeared on behalf of the Stewards.

Mr Neale Scott represented Ms Abby Sanderson.

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

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

(a) careless.

**Particulars of charge:** Abby Sanderson, driver of Shaq plead guilty to a charge under AHRR 168(1)(a) for careless driving, with the particulars of the charge being that immediately after the start Ms Sanderson directed her drive up the track abruptly, from the peg line to a position, wider than the one out line and then failed to correct that abrupt shift which has resulted in the outside sulky wheel of Shaq locking wheels with the inside sulky wheel of Conspirator NZ (Zac Phillips) causing both runners to be severely checked and effectively eliminating the chances of both runners in the event; actions which in the opinion of Stewards were careless. In determining penalty, in accordance with the HRV Minimum Penalty Guidelines, Stewards considered Ms Sanderson’s guilty plea, good overall record under this rule, with one prior caution in 364 career drives, the medium-to-high degree of carelessness with both runners being severely checked and losing their respective chances in the event and subsequently suspended Ms Sanderson’s license to drive for a period of ten (10) days. Ms Sanderson was advised of her rights of appeal.

**Plea:** Guilty

**DECISION**

1. Ms Abby Sanderson is a Grade A harness racing driver. On 9 February 2023 she drove “Shaq” in Race 2 at Bendigo. After the event, the Stewards held an inquiry. At the conclusion of the inquiry, Stewards charged Ms Sanderson under Australian Harness Racing Rule (“AHRR”) 168(1)(a), which proscribes driving in a manner which, in the opinion of The Stewards, is careless.
2. Ms Sanderson pleaded guilty to the charge and is thereby taken to have admitted the particulars of the charge which were read to her before her plea was taken. The particulars are stated above.
3. In setting a penalty, the Stewards took into account the guilty plea and Ms Sanderson’s good driving record. They stated that but for those factors, the penalty would have been a 14 day suspension but that they had reduced it accordingly by four days to give a 10 day suspension. Stewards assessed the degree of carelessness as being in the mid to high range given the severe interference as referred to in the particulars of the charge.
4. Ms Sanderson has appealed against the severity of the penalty. She did not seek to withdraw her guilty plea and change her plea to not guilty. The sole question before the Tribunal is whether the penalty of 10 days suspension was appropriate in all the circumstances or whether some lesser penalty ought to have been imposed.
5. In recent like matters dealt with by the Stewards under this Rule, where the drivers concerned had pleaded guilty and had good records, a penalty of seven days suspension was imposed for low range carelessness and in one case for low to mid range carelessness. In this matter, the particulars of the charge referred to “severe checking” which the Stewards considered justified a label of mid to high range carelessness.
6. Given the “severe checking” referred to in the particulars, we do not accept the submission put on behalf of Ms Sanderson that only a fine should be imposed. We are also not bound by any penalty guidelines produced by Harness Racing Victoria (“HRV”). We are informed by such guidelines but not bound by them.
7. In support of a lesser penalty than the one imposed, it was contended on behalf of Ms Sanderson that she is a 17 year old, inexperienced driver, who tried to steer the horse she was driving away from the horse to her outside immediately before locking wheels. It was also said that it was her first drive on a horse which had a habit of hanging out. The Stewards countered that by saying that a Grade A driver is expected to drive in a manner appropriate for that grading and represent themselves before Stewards according to that rank.
8. Much of what was put on behalf of Ms Sanderson was at odds with the particulars of the charge which are taken to be admitted by her guilty plea.
9. The imposition of a penalty higher than the seven days usually given for low range carelessness and less than 10 days, as given in this case, that is, a reduction to eight or nine days, would be mere “tinkering” with the penalty imposed by the Stewards. The severe interference in this case ruined the winning chances of two horses and was deserving of the 10 day penalty imposed by the Stewards.
10. Having regard to the foregoing, we dismiss the appeal. The 10 days suspension shall commence at midnight on 10 June 2023.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal