17 August 2023

**DECISION**

**RACING VICTORIA**

**and**

**LEE HORNER**

**Date of hearing:** 9 August 2023

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

**Appearances:** Mr Corie Waller appeared on behalf of the Stewards.

Mr Lee Horner represented himself.

**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:** Lee Horner (Instigator) was found guilty of a charge of careless riding under the provisions of AR 131(a), in that near the 600m he permitted his mount to shift in when insufficiently clear of Wil John, thereby placing that gelding in restricted room, which had contributed to Wil John having to be checked when tightened onto the running rail shortly after. L Horner had his licence to ride in jumps and highweight races suspended for a total of 4 races commencing Monday 7 August, 2023 and to expire at the conclusion of the fourth jumps/highweight race at Coleraine on the 13 August, 2023. In assessing penalty, account was taken of his good record and that the carelessness was in the mid-range. Stewards also noted that there was a contribution towards the latter part of the incident when Count Zero (Chris McCarthy) shifted in when not clear of Instigator.

**Plea:** Not Guilty

**DECISION**

Mr Lee Horner, you are appealing against a decision of the Stewards that you were guilty of careless riding in Race 5, the Grand National Hurdle over 4,200 metres at Sandown on Sunday, 6 August 2023. You were riding Instigator and Mr Will McCarthy was riding Wil John. Mr Chris McCarthy was riding Count Zero. The careless riding charge centres upon interference to Wil John which occurred after the second last jump and at approximately the 600 metre mark.

I have viewed the videos of the relevant part of the race many times, particularly the video bearing the code IM 13 HIC, which could be described as the head-on view. When the horses jumped the second last hurdle Will John was to your inside and was the horse closest to the running rail. I might add that it was a surprisingly closely bunched field for the concluding stages of a long hurdle race. In any event, Wil John was closest to the inside rail, you were to its immediate outside and Count Zero was further out. After the second last jump there was a sharpish turn into the home straight and to the last jump. You maintain that you continued in a straight line after the second last jump to the home turn.

You may have continued in a straight line, but this brought you to the outside of Wil John. In my opinion you continued getting closer to the inside rail, did cross Wil John somewhat sharply and did cause some interference to that horse. It had to be checked and noticeably threw up its head. In the meantime, Count Zero was crossing towards the rail from your outside. The interference to Wil John appears to have been substantially enhanced or magnified by this. Wil John was effectively knocked out of the race. As I understand it, Mr Chris McCarthy has also been interviewed and charged with careless riding.

The bottom line is this. I am of the view that the case against the Stewards has been proved to my comfortable satisfaction and I repeat that I have viewed the video many times. I also point out that in my opinion the argument that you made concerning the unsatisfactory nature of the set-up from after the second last jump to the sharpish turn into the straight has some merit. This is emphasised when there is a closely packed field contesting the finishing stages of a race. This risk of horses running out of room leading into and negotiating that final turn seems to me to be a real one. That does not mean that an absence of due care is excused. It emphasises the need for it. However, it is a factor that I bear in mind.

In my opinion, you were careless in crossing Wil John when not sufficiently clear of that horse and some interference did result. In short, the appeal in the relation to the charge of careless riding is dismissed and I shall hear the parties on the question of penalty.

**PENALTY**

Mr Lee Horner, you opted to plead not guilty to this charge, which is your right. It does mean that a discount on penalty based on a plea of guilty is not available.

However, I do regard this as a somewhat unusual case and one in which the plea of not guilty was not just a nuisance plea or a “pie in the sky” one. I have not found in your favour, but I can appreciate that there was substance in your plea, even if I have found against you.

You have a very good record. In all the circumstances, I uphold the appeal on penalty and reduce the suspension from four races to suspension for three races.

Mark Howard

Registrar, Victorian Racing Tribunal