18 October 2023

**DECISION**

**RACING VICTORIA**

**and**

**BEN MELHAM**

**Date of hearing:** 17 October 2023

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

**Appearances:** Mr Rob Montgomery appeared on behalf of the Stewards.

Mr Matthew Stirling appeared on behalf of Mr Ben Melham.

**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:** Mr Ben Melham (Griff) was found guilty of a charge of careless riding under the provisions of AR131(a), in that near the 50m he failed to make sufficient effort to prevent his mount from shifting out, resulting in Veight being hampered and taken out off its course and further, as a consequence, Steparty, King Colorado and Verdad all meeting with interference. Ben Melham had his licence to ride in races suspended for a total of 10 race meetings (2 metropolitan, 8 provincial), with the period to commence on Sunday 22 October 2023 and expire on Monday 30 October 2023. Accordingly, Ben Melham will be able to return to ride on Tuesday 31 October 2023. In assessing penalty, account was taken of his record, the racing manners of Griff and that the incident was in the mid-range.

**Plea:** Not Guilty

**DECISION**

Mr Ben Melham, you are pleading not guilty to a breach of AR 131. The alleged breach occurred in Race 9, the Neds Caulfield Guineas over 1600 metres, at Caulfield on Saturday, 14 October 2023. You were riding Griff. Another horse involved was Veight, ridden by Mr Damian Lane. It is alleged that you permitted your horse to shift out when not sufficiently clear of Mr Lane, causing interference to Veight and to three other horses.

We have viewed the relevant videos many times. We also note the submissions of Mr Rob Montgomery, on behalf of the Stewards, and the submissions of Mr Matthew Stirling on your behalf, along with the material that was put before us by Mr Stirling and the matters that you raised.

It is apparent that in the home straight, Griff, which was leading on the rails, shifted out a little when about 75 metres from the finishing line. You stopped riding the horse vigorously, straightened it and resumed using the whip. The horse then moved away from the rails and towards the centre of the track. It was a greater movement than the earlier shift. You continued to ride your mount vigorously as it shifted outwards, using the whip in your right hand. Griff moved out from the rails by a width of approximately four or five horses, causing interference to Veight, before you ceased using the whip. That shifting out took place over almost all of the last 50 metres of the race.

You ceased using the whip after your horse almost collided with Veight. You then pulled your horse's head back towards the rails. By this time the horses were virtually at the finishing post.

We say now that we are not convinced that your horse was spooked by a photographer on a small stepladder about 20 to 30 metres before the finishing post, about 30 metres away from the track and on the inside. Certainly, the presence of such a person had the potential to cause problems, but we are not persuaded that the presence of that person inside the track caused what occurred. Your horse had shown a tendency to shift out earlier in the straight, had been straightened and then did it again to a greater degree. That second shift did not have the appearance of a horse suddenly reacting to an outside factor some distance away. In any event, even if the presence of a cameraman had some adverse effect, the essence of the case against you is that your horse moved away from the rails a considerable distance and you continued to ride it out, using the whip, rather than straightening it up. We would again point out that, earlier in the straight, you had ceased using the whip because the horse was moving out away from the rails.

Bearing all of the above in mind, we are of the opinion that you continued to ride the horse out, including the use of the whip over approximately the last 50 metres when the horse was moving comparatively rapidly away from the rails and across the track. This constitutes careless riding. In short, we find that the charge of careless riding has been made out and the appeal in that regard is dismissed.

**PENALTY**

In relation to the appeal against penalty, we note your good record and the fact that the horse did move somewhat abruptly. However, during at least the initial stages of the interference caused by its outward movement, you made no realistic attempt to straighten the horse and thus the interference resulted. We refer to our previous observations.

In our opinion, the penalty imposed by the Stewards took into account the relevant matters and it was appropriate for the offence.

The appeal against penalty is dismissed.

Mark Howard

Registrar, Victorian Racing Tribunal