9 November 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RYAN DUFFY**

**Date of hearing:** 1 November 2023

**Panel:** Judge John Bowman (Chairperson) and Ms Maree Payne.

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

Mr Ryan Duffy represented himself.

**Charge:** Australian Harness Racing Rule 163(1)(a)(iii) states:

(1) A driver shall not

(a) cause or contribute

(iii) interference

**Particulars of charge:** Nuclear Attitude- shifted in near the 300 metres and contacted the legs of Kyvalley Surfrider, checking that runner causing him to gallop, with trailing runners then in turn being checked. Stewards inquired into the incident and after hearing evidence from drivers G Craven (Kyvalley Surfrider) and R Duffy (Nuclear Attitude) and viewing the race vision Mr Duffy was found guilty of a charge pursuant to AHRR 163(1)(a)(iii) for causing interference, the particulars of the charge being that he permitted his drive to shift in when not sufficiently clear of Kyvalley Surfrider, contacting and checking that runner, leading to trailing runners also being checked to varying degrees. Mr Duffy’s licence was suspended for ten days with a deferment granted to allow the suspension to commence at midnight on 1/10/23.

**Plea:** Not Guilty

**DECISION**

Mr Ryan Duffy, you are appealing against a decision of the Stewards in relation to Race 6 at Hamilton on 22 September 2023. In that race, you were driving Nuclear Attitude. The other relevant horse is Kyvalley Surfrider, driven by Mr Glen Craven. In an interview after the race, you were found guilty of a breach of Rule 163(1)(a)(iii) – that is, you were found to have caused or contributed to interference. It is against that finding that you are appealing.

In the hearing of this appeal, Mr Adrian Crowther appeared on behalf of the Stewards. You appeared on your own behalf. We were directed to portions of the video replays several times. The most relevant part of the videos is an incident just prior to the home turn on the final lap. We are not of the opinion that an earlier incident in the vicinity of the finishing post a little under a lap earlier is of any relevance or assistance.

We have watched the relevant video many times. In our opinion, the charge has been made out. The head on video seems to us to show that you continued to allow Nuclear Surfrider to move inward and into the line of Mr Craven when not sufficiently clear of him. In other words, as alleged, you permitted your horse to shift down when not sufficiently clear of him. You did not stop using the whip, but it is not suggested that the actual whip contact contributed to the shift. The Stewards case, and what we accept, is that you allowed your horse to shift into Mr Craven’s line when not sufficiently clear of him, causing his horse to break and drop out of the event. You drove on vigorously to the finish line.

In summary, the appeal in relation to guilt is dismissed. We shall hear the parties on the question of penalty.

**PENALTY**

Mr Ryan Duffy, the penalty imposed on you by the Stewards was one of suspension for 10 days. You are appealing against the severity of that penalty.

We appreciate the detailed submission of Mr Crowther on this issue. He referred to the HRV Penalty Guidelines. He argued that the incident impacted upon some 6 horses and the level of interference was in the medium-high range. He also pointed out that your more recent record is one of 440 drives without a suspension.

As stated, we have viewed the video many times. Of course, we are not bound by the HRV Guidelines, but they can be a useful starting point.

We do take into account that, as stated by Mr Crowther at page 9 of the interview with you, the charge is not that you directed your horse down to an inwards position, but rather that you permitted it to shift down. There is a significant difference.

We also take into account the fact that Mr Craven’s reaction to his horse breaking was such that it may have contributed to interference with other horses.

In all the circumstances, bearing in mind the nature of of the interference and your good record, we are of the opinion that the appeal against penalty should be allowed and the period reduced one of suspension for eight days.

The suspension shall commence at midnight on Saturday, 4 November 2023.

Mark Howard

Registrar, Victorian Racing Tribunal