8 February 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RYAN DUFFY**

**Date of hearing:** 2 February 2024

**Panel:** Judge John Bowman (Chairperson) and Dr June Smith.

**Appearances:** Mr Nicholas Murray appeared on behalf of the Stewards.

Mr Anthony Butt represented Mr Ryan Duffy.

**Charge:** Australian Harness Racing Rule (“AHRR”) 149(2) states:

(2) a person shall not drive in a manner which in the opinion of Stewards is unacceptable.

**Particulars:** After driving forward from barrier 2 after the start to a point of receiving interference near the 1300m, once NIFTY JOLT balanced approaching the 1200m, Mr Duffy has again driven forward and placed undue pressure on his own drive (NIFTY JOLT) and in turn applied pressure to the leader ABSOLUTION until NIFTY JOLT then gave ground approaching the 400m. Stewards considered that the driving tactics employed were unacceptable, detrimental to the overall performance and were the main contributing factor for NIFTY JOLT finishing in 8th position beaten 39.6m. In assessing penalty in accordance with the HRV Minimum Penalty Guidelines, Stewards took into account Mr Duffy’s applicable prior record, high frequency of driving and the circumstances involved. Mr Duffy’s licence to drive in races was suspended for 4 weeks to commence midnight 10 December 2023. Post-race veterinary examination of the gelding revealed no apparent abnormalities.

 **Plea:** Not Guilty

**DECISION**

Mr Ryan Duffy, you are appealing against a decision of the Stewards that you breached AHRR 149(2) – that is, that you drove in an unacceptable manner. This relates to your drive of Nifty Jolt in Race 5 at Charlton on 1 December 2023. Another horse partially involved was Absolution, driven by Mr Jack Laugher.

Essentially, the thrust of the Stewards’ argument is that the unacceptable manner in which you drove Nifty Jolt concerns your contesting the lead, including with some use of the whip, in the early and middle stages of the race, resulting in the horse subsequently dropping out substantially.

We accept that your instructions from the trainer were to the effect, “If you can lead, lead”. Of course, instructions such as this have to be applied as racing circumstances permit.

We have viewed the video of the race many times. You began fairly smartly from gate 2. You did use the whip early in the race. However, you became involved in a three way battle for the lead, which effectively evolved into a two way battle between yourself and Mr Laugher. He got Absolution to the lead, but in so doing caused some interference to you. You dropped back to be on the outside of the third horse in the battle, which had started from the pole position.

Whilst you had used the whip early on, and had vigorously contested the lead, it seems to us that a key part of the charge is what happened next. Rather than staying behind Absolution and on the outside of the original pole marker, you drove your horse forward again, back to the outside of Mr Laugher. You again used the whip. You continued going head to head with Mr Laugher for the length of the home straight and around towards the back straight. It was in the back straight that your horse started to weaken visibly. It had suffered a very hard run, with the whip used many times.

Ultimately you finished a distant second last, beaten 39.6 metres. Mr Laugher’s drive finished last.

We are of the view that the case for the Stewards has been made out. You put your drive under considerable pressure, including use of the whip, from the start. After the early interference, approximately 300 metres after the start, you resumed the duel with Mr Laugher for the lead, again employing use of the whip. In our opinion, the attack for the lead again, with repeated use of the whip, underlines the fact that you drove in an unacceptable manner. Whilst the drive as a whole until you horse weakened was unacceptable, we feel that resuming the repeated use of the whip after you had suffered the interference earlier in the race clearly amounted to a breach of AHRR 149(2). In short, we find the charge proven and the appeal on liability is dismissed. We shall hear the parties on the question of penalty.

**PENALTY**

In this matter, we are of the view that the appeal in relation to penalty should be upheld and the penalty imposed reduced to one of suspension for three weeks.

We have come to that conclusion for the following reasons. Firstly, in relation to this Rule you have a very good record. You are a busy and successful driver, but have not breached this Rule in approximately your last 900 drives.

Secondly, in this race you became to some extent the victim of circumstances. Your instructions were to lead if you could. When contesting the lead in the early stages of the race, you suffered noticeable interference, which, as we understand it, resulted in the suspension of another driver. You then attempted again to lead, when the most prudent and sensible step would have been to surrender that battle, rather than trying to comply with your instructions.

Thirdly, you are a full-time driver. That is your source of income. You are a married man with three young children. Whilst you should remember this and the importance of your driving income, it is a factor which we take into account.

Fourthly, we accept that you were doing your best to be at least competitive in the race in a situation where you had been instructed to lead if possible and where that plan had been damaged by interference from another driver. As stated, principally your offence resulted from an error of judgement when you decided to comply with your instructions despite suffering quite noticeable interference.

In all those circumstances, we have determined that a period of three weeks suspension is fair and appropriate and the appeal against penalty is upheld accordingly. The suspension shall begin at midnight on Friday, 2 February 2024.

Mark Howard

Registrar, Victorian Racing Tribunal