28 March 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**KEVIN WEIDENBACH**

**Date of hearing:** 5 March 2024

**Panel:** Judge John Bowman (Chairperson) and Ms Melissa Mahady.

**Appearances:** Mr John Packer appeared on behalf of the Stewards.

Mr Kevin Weidenbach represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 165(1)(b) states:

(1) From the start through the first turn, and until reaching the next 30 straight, a driver shall:

(b) not move the drivers horse towards the inside running line unless the rear of the driver's sulky is at least one metre clear of the extended front legs of the horse racing in the next position closer to the inside running line.

**Particulars:** Mr Weidenbach was found guilty of a charge under Rule 165(1)(b) for directing his runner Chevron Flies NZ down the track near 1400m when not the required one metre clear of the extended front legs of Florenceofkintail, causing that mare to be taken down the track, being checked and losing its rightful racing position. Mr Weidenbach’s licence to drive in races was suspended for 14 days. In determining penalty Stewards stook into consideration Mr Weidenbach’s plea, recent record under interference related rules and the circumstances of the incident.

 **Plea:** Not Guilty

**DECISION**

Mr Kevin Weidenbach, you are pleading Not Guilty to a breach of Harness Racing Rule 165(1)(b). The alleged offence occurred in Race 6 at Geelong on 31 January 2024. You were driving Chevron Flies. The other horse involved was Florenceofkintail, driven by Mr Chris Alford. It is asserted by the Stewards that, in the early stage of the race and just before and on the first turn into the home straight, you crossed Mr Alford when not the prescribed distance of 1 metre clear of the extended front legs of his horse. This allegedly caused Mr Alford to have to lean back in the sulky and restrain his horse.

We have viewed the video material many times and have been taken through it carefully by Mr Packer on behalf of the Stewards. We would add at this stage that you could be described as only contesting the charge to a limited degree. From the time of the first interview with the Stewards, you have stated that you may have “squeezed him up” to a limited degree when crossing him.

We find that you did take his running and, in so doing, caused him to take told of the reins, and lean back in the sulky. He was effectively forced to restrain his horse rather than come into contact with your sulky as you moved into the space in front of him. The video is comparatively clear.

In short, we are comfortably satisfied that the charge has been proven and that you are guilty of a breach of the relevant Rule. We shall move on to the question of penalty.

**PENALTY**

Mr Kevin Weidenbach, you have been found guilty of a breach of Rule 165(1)(b).

We turn now to the question of penalty. You do not have a particularly good record in relation to what could be described as traffic offences, with four prior convictions in approximately the last year. The present offence did not involve direct contact with another runner, but Mr Alford did have to restrain his horse quite noticeably as you drove into the gap between him and the leader. Happily, no greater damage ensued, but it did require evasive action by Mr Alford.

You are a full-time driver, although, as we understand it, you do assist your parents on their property where some horses are based. However, as stated, your sole income is from your driving.

The penalty imposed by the Stewards was one of suspension for fourteen days. Bearing in mind the nature of the offending, being crossing when not clear by the required distance and the risks associated with that, and your record, we are of the view that the penalty imposed was a fair and reasonable one. Drivers must be aware of the dangers of causing interference at all times and particularly in the early stages of a race when racing positions are being obtained. We also take into account that you pleaded Not Guilty, although we also note that the area of real contest was very limited.

In short, the appeal is dismissed and the period of suspension for fourteen days remains. The suspension shall commence at midnight 15 March 2024.

Mark Howard

Registrar, Victorian Racing Tribunal