7 October 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**DAVID MURPHY**

**Date of hearing:** 2 October 2024

**Date of decision:** 2 October 2024

**Panel:** Judge John Bowman (Chairperson) and Dr Andrew Gould.

**Appearances:** Mr Elliot Turner appeared on behalf of the Stewards.

Mr David Murphy represented himself.

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

 (1) A driver shall not –

(a) cause or contribute to any

(iii) interference

**Particulars:** Driver Mr David Murphy was found guilty of a charge under AHRR 163(1)(a)(iii) for contributing to interference in that, when rounding the first turn after unsuccessfully challenging for the lead, he abruptly restrained his runner and slackened the pace in the running line which resulted in *BIG SLEDGE HAMMER*which was directly trailing to be hampered, and in turn the trailing *FERRIGNO*had to be checked and consequently broke gait. When assessing penalty consideration was given to, Mr Murphy’s plea, driving record in relation to the rule and the circumstances of the incident. Accordingly, D Murphy had his license to drive in races suspended for a period of 14 days to commence midnight 11/07/24. Gave ground from the 350 metres to be beaten 37.2 metres. Inconvenienced and had to be steadied away from *FIRST CLASS NZ*passing the 100 metres when that runner shifted out.

**Plea:** Not Guilty

**DECISION**

Mr David Murphy, you are appealing against the decision of the Stewards relating to your drive of Major Drama in Race 1 at Ballarat on 11 July 2024. The Stewards found that you had breached Rule 163 (1)(a)(iii), which, in essence, states that a driver shall not cause or contribute to any interference. You are contesting this.

It is alleged that the horse that suffered the interference was Ferrigno, driven by Mr John Justice. The other horse directly involved was Big Sledge Hammer, driven by Mr Ash Warton. That Ferrigno suffered some interference and broke is not in dispute. The issue is whether it was interference caused by you.

We have viewed the video and had aspects of it drawn to our attention. We have also had the benefit of helpful submissions from Mr Turner on behalf of the Stewards and from you.

As is apparent from the video, the incident occurred a short distance after the start. You had gone forward and were sitting on the outside of the leader. Mr Warton was behind you, one out, one back. Mr Justice was immediately behind Mr Warton, one out two back.

You then eased out of the contest for the lead. We are not of the opinion that this was done in anything other than a normal manner. You eased back to be sitting on the outside of the second horse on the marker pegs. Mr Warton was still behind you. There was no apparent interference to his horse. He may also have eased a little, but there was no sudden or dramatic grabbing of the reins or attempting to change course. As stated, there simply appeared to be no interference to him, other than a possible slackening of pace as you eased out of the contest for the lead.

Mr Justice’s horse continued forward. It did not swing out. As Mr Justice said at the time, it may well have shifted towards the pegs. In any event, it broke, and dropped back through the field. We would add that there had been no obvious or dramatic taking hold of or pulling back on the reins by Mr Justice.

Mr Justice’s horse got close to Mr Warton’s sulky, may have shifted a little towards the pegs, galloped and dropped back.

There was no interference to Mr Warton and it was only later that he became aware that Mr Justice’s horse had broken, galloped and dropped out.

In all the circumstances, we cannot be comfortably satisfied that a breach of Rule 163 (1)(a)(iii) was committed by you. Indeed, in our opinion the same result would follow even if the test to be applied was one of the balance of probabilities, as mentioned in submissions by Mr Turner.

Put simply, we are not of the opinion that you caused or contributed to any interference. This is underlined by the fact that there was no interference caused to the horse immediately behind you, the driver of which was not even aware that the horse behind him had broken and galloped. The viewing of the video emphasises that you did no more than ease out of the contest for the lead, causing no interference to the horse behind you.

In short, the appeal is upheld and the Charge pursuant to Rule 163 (1)(a)(iii) is dismissed.

Mark Howard

Registrar, Victorian Racing Tribunal