3 October 2024

**DECISION**

**RACING VICTORIA**

**and**

**JAMIE KAH**

**Date of hearing:** 19 September 2024

**Date of decision:** 19 September 2024

**Panel:** Judge Kathryn Kings (Deputy Chairperson), Dr June Smith and Mr Des Gleeson.

**Appearances:** Mr Corie Waller, instructed by Mr James Hitchcock appeared on behalf of the Stewards.

Mr Matthew Stirling appeared on behalf of Ms Jamie Kah.

**Charge:** Australian Racing Rule (“AR”) 129(2) states:

 A rider must take all reasonable and permissible measures throughout the race to ensure that the rider’s horse is given full opportunity to win or to obtain the best possible place in the field.

**Particulars:** **Charge 1 – AR 129(2)**

1. You are, and were, at all relevant times, a rider licensed by Racing Victoria;
2. On Saturday 31 August 2024, you rode Let’sfacethemusic in Race 6, the ive> McNeil Stakes over 1200 metres at the Caulfield racecourse;
3. You failed to take all reasonable and permissible measures throughout the race to ensure that Let’sfacethemusic was given full opportunity to win or obtain the best possible place in the field in that:

1. Between approximately the 175m and approximately the 100m, you failed to ride your mount with sufficient vigour or purpose to improve your position between Band of Brothers and Stay Focused where there was sufficient room and when it was reasonable and permissible to do so; and/or
2. Over approximately the final 75m, you failed to ride your mount with sufficient vigour when it was reasonable and permissible to do so.
3. Let’sfacethemusic was placed 5th of 8 starters beaten 4.56L.
4. Your actions as set out in 3(a) and/or 3(b) resulted in Let’sfacethemusic not being given the full opportunity to win or to obtain the best possible place in the field.

**Plea:** Not Guilty

**DECISION**

Ms Jamie Kah, you were the rider of Let’sfacethemusic in Race 6, the McNeill Stakes at Caulfield on Saturday, 31 August 2024.

You are charged under Australian Racing Rule 129(2), which reads:

A rider must take all reasonable and permissible measures throughout the race to ensure that the rider’s horse is given full opportunity to win or to obtain the best possible place in the field.

It is alleged as follows:

(a) Between approximately the 175m and approximately the 100m, you failed to ride your mount with sufficient vigour or purpose to improve your position between Band of Brothers and Stay Focused where there was sufficient room and when it was reasonable and permissible to do so; and/or

(b) Over approximately the final 75m, you failed to ride your mount with sufficient vigour when it was reasonable and permissible to do so.

You were at all relevant times a rider licensed by Racing Victoria. You have pleaded not guilty to the charge.

This charge comes before the Tribunal because it constitutes a serious offence as defined in the Rules of Racing and it must be heard and determined by it.

We have considered all the evidence, including your evidence, the evidence of the Stewards, and we have reviewed the relevant racing footage many times. We have also considered the submissions made by Mr Corrie Waller on behalf of the Stewards and the submissions of Mr Matthew Stirling on your behalf. We have also considered the brief of evidence.

We are satisfied that approximately between the 175m and the 100m mark there was a sufficient gap for you to ride your mount with vigour and purpose so as to improve your position. We are satisfied that this ride did not involve a mere error of judgment on your part. When the film is viewed objectively, the failure to take the run which presented itself and was available to be taken for approximately 8 strides represented a breach of Rule 129 (2) and was a departure from the standard of riding to be expected of a rider of your standing.

We acknowledge that the horse raced keenly at the early stages, but during the relevant period it raced tractably.

Further, in relation to your ride in the last 75m of the race, we are satisfied that you failed to ride your mount with sufficient vigour when it was reasonable and permissible to do so. While we acknowledge the evidence of the historical racing manners of the horse, we are satisfied that you did not use sufficient vigour or purpose. You did not give your horse every opportunity to obtain the best possible place in the field.

We find that the charge has been proven and will now hear submissions on penalty.

**PENALTY**

In relation to penalty, we heard submissions from the Stewards and from Mr Stirling on your behalf.

In summary, Mr Waller submitted this was a Group 3 race at the start of the Spring carnival and impacted on trainers, owners and prize money. He referred to other decisions which involved AR 129 (2). He submitted that the penalty should be a suspension for not less than 6 weeks.

Mr Stirling submitted that the penalty imposed should be less than the penalties imposed in other cases referred to by the Stewards. Further, Ms Kah was riding in difficult circumstances. Ms Kah has an exceptional record and was observing proper care for herself.

In imposing a penalty, we take into account penalties in like matters. We also accept Mr Stirling’s submission in relation to Ms Kah’s exceptional record. This is not a case where integrity issues were raised. In all the circumstances, we impose a penalty of 3 weeks suspension. The starting date of the suspension is to commence at midnight on 28 September 2024.

**STARTING DATE OF THE SUSPENSION – APPLICATION**

On Friday, 20 September 2024, Ms Kah made an application to the Tribunal to commence her suspension on Friday, 27 September 2024. The Tribunal granted this application.

Ms Kah’s suspension will now commence at midnight on Friday, 27 September 2024, with the suspension then running for three weeks and Ms Kah will be able to ride again on Saturday, 19 October 2024.

This starting date fits within the nine-day deferment period.

Mark Howard

Registrar, Victorian Racing Tribunal