6 November 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**ZAC PHILLIPS**

**Date of hearing:** 31 October 2024

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

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

Mr Zac Phillips represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 170(4)(a) states:

(4) a driver shall not

(a) attempt or allow his foot or leg to come into contact with the hindlegs of the horse he is driving

**Particulars:** Stewards inquired into the circumstances of driver Zac Phillips right foot making contact with the off hindleg of SPIRITED LASS when driving out in the home straight. After reviewing the race vision and hearing evidence from Mr Phillips he was charged pursuant to AHRR 170(4)(a). Mr Phillips pleaded not guilty to the charge however after giving due consideration to the evidence Stewards found Mr Phillips guilty of the charge and after hearing submissions on penalty and bearing in mind HRV Minimum Penalty Guidelines a fine of $500 was imposed.

**Plea:** Guilty

**DECISION**

Mr Zac Phillips, you are appealing in relation to the penalty imposed on you by the Stewards following your drive of Spiritual Lass in Race 5 at Cranbourne on 29 September 2024. Spiritual Lass in fact won the race, which was a trot.

You are charged with a breach of AHRR 170(4)(a), which in essence prohibits foot or leg contact by a driver with the hind legs of the horse being driven.

Initially you pleaded not guilty to this charge, but you have always admitted that your right foot did briefly contact Spiritual Lass in the home straight and comparatively close to the finishing line. We might add that Spiritual Lass led throughout and always looked the winner in the home straight, being ahead by a comfortable margin.

In effect, you were pleading not guilty because of some slipping on the part of your right foot and you immediately corrected that contact. It is not suggested, now would it appear, that you gained any advantage out of what occurred. In any event, after some brief discussion, today you changed your plea to one of guilty, whilst advancing your explanation.

AHRR 170(4)(a) could be described as effectively a strict liability Rule. Contact must not be made with the hind legs of the horse being driven.

When interviewed by the Stewards, you admitted contact and provided your explanation. You referred to your immediate correcting of the contact and the fact that it had no effect on the performance of the horse or the outcome of the race. We accept that.

It may well be that you were unlucky, given the accidental nature of what occurred. Perhaps the comparatively low positioning of your right leg and foot contributed to what occurred, but we repeat that this is essentially a strict liability situation. In any event, you now plead guilty to the offence.

The Stewards imposed a fine of $500. In view of all of the above, including your change of plea to one of guilty, we do uphold your appeal. The fine of $500 shall remain in place, but of that amount $250 is suspended for a period of 24 months and will only be activated if you commit a similar offence during that period. We would add that this penalty is consistent with at least some of the penalties in similar cases.

Thus, the appeal is upheld and the penalty varied as stated.

Mark Howard

Registrar, Victorian Racing Tribunal