3 February 2025

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**DENNIS PATON**

**Date of hearing:** 29 January 2025

**Date of Decision:** 29 January 2025

**Panel:** Judge John Bowman (Chairperson) and Magistrate Peter Reardon (Deputy Chairperson).

**Appearances:** Mr Scott Gillespie appeared on behalf of the Stewards.

Mr Dennis Paton represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 30(1) states:

(1) The trainer or the person in charge of a horse that is included in the final acceptors for a race shall inform the Stewards as soon as practicable if the horse has been injured in any way or suffered any illness or condition that may affect its running in the race.

**Particulars of charge:** Trainer Dennis Paton was found guilty of a charge under AHRR 30(1) for failing to inform Stewards that the gelding had sustained the laceration prior to the event. Mr Paton was fined $500, $250 of which was fully suspended for a period of 2 years providing no further breach of this Rule.

**Plea:** Not Guilty

**DECISION**

Mr Dennis Paton, you are appealing against a decision of the Stewards made in relation to “Majestic Monarch”, which competed in Race 2 at Shepparton on 24 December 2024. It ran third.

After the race, the Stewards noticed a laceration or break in the skin in the order of 8 – 10 centimetres in length. A photograph was taken of this and placed in evidence before us. It is quite a noticeable laceration, but with no indication of bleeding.

There is no argument but that you had noticed the laceration before the race. You did not bring it to the attention of the Stewards. Effectively, you argue that it was a superficial laceration that had no effect upon the performance of the horse, which ran a very fast time. It would appear that you were not aware of the Rule, but you argue that it was not applicable in any event. You claim that this was not an injury that had the potential of affecting the performance and did not do so.

The argument advanced by Mr Gillespie on behalf of the Stewards is that the Rule requires the Stewards to be advised if a horse that is a final acceptor is injured in any way. Australian Harness Racing Rule (“AHRR”) 30(1) requires the Stewards to be informed as soon as possible. Thus, a decision can be made as to whether the horse is fit to compete.

We accept that the laceration had no effect on the performance of the horse. However, that is not the end of the matter. You were aware before the race that the horse had suffered the laceration in question. Pursuant to the Rule, your obligation was to inform the Stewards. That it was a laceration which you say healed in a couple of days is also not to the point. Nor is it to the point that the horse performed well.

We must be comfortably satisfied that a breach of AHRR 30(1) has occurred. We are so comfortably satisfied. Before the race, you were aware of the laceration. You did not inform the Stewards that the horse had been injured. It had a noticeable laceration. Your obligation was to inform the Stewards. Ignorance of the operation of the Rule is no excuse.

As stated, our conclusion is that we are comfortably satisfied that you breached AHRR 30(1) and that the Stewards have discharged the burden of proof.

Accordingly, your appeal against conviction is dismissed. We shall hear the parties on the question of penalty.

**PENALTY**

The penalty imposed in this matter was, in essence, a fine of $500, but with $250 of that suspended for a period of two years. That is only activated if a further relevant offence is committed. You are arguing that there should only a warning or reprimand imposed.

Mr Gillespie directed us to two similar cases involving a breach of this Rule. In each instance, the person involved was fined $500.

We would point out that you pleaded Not Guilty in this case. There is no benefit or allowance for a plea of Guilty.

We also note your excellent record and your level of involvement in the industry for in excess of 50 years. We again point out that you contested this charge, and did so unsuccessfully.

In our opinion, the penalty imposed by the Stewards is fair and reasonable. We consider it unlikely that you will offend again. If you do not, the penalty is a fine of $250. This seems to us to be appropriate.

As stated, the penalty of a further $250 is only applicable in the unlikely event that you commit a relevant offence in the next two years.

We consider the penalty to be fair and reasonable in all the circumstances.

The appeal in relation to penalty is dismissed.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal