11 March 2025

**DECISION**

**RACING VICTORIA**

**and**

**SHANE FOLEY**

**Date of Hearing:** 13 February 2025

**Date of Decision:** 13 February 2025

**Panel:** Judge John Bowman (Chairperson).

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

Mr Shane Foley represented himself.

**Charge:** Australian Rule of Racing (“AR”) 131(a) states:

 A rider must not, in the opinion of the Stewards:

(a) engage in careless, reckless, improper, incompetent or foul riding.

**Particulars of charge:** Shane Foley (Fratineeze) was found guilty of a charge of careless riding under the provisions of AR131(a), that passing the 200m he permitted his mount to shift out when insufficiently clear of Marty McFly resulting in that gelding being inconvenienced and then eased to avoid the heels of Fratineeze. Shane Foley had his licence to ride in races suspended for a total of 9 race meetings, with the period to commence on 17 February 2025 and expire on 26 February 2025. Accordingly, Shane Foley will be able to return to ride on 27 February 2025. In assessing penalty Stewards deemed the incident to be in the low range and took into account his record.

**Plea:** Not Guilty

**DECISION**

Mr Shane Foley, you are appealing the finding of careless riding made against you by the Stewards following the running of Race 1 over 1,600 metres at Colac on 7 February 2025.

You were riding “Fratineeze”. The other horse involved was “Marty McFly”, ridden by Mr Beau Mertens. The incident upon which the Stewards rely occurred in the vicinity of the 200 metre mark. Both horses were contesting the lead at that time. Your horse was two horses out from the running rail and Mr Mertens was to your immediate outside.

You have denied that you rode carelessly. You have said that your horse was not an easy horse to ride and did have a tendency to shift outwards in the straight. You claim, in essence, that you put the whip away as your horse moved out towards Mr Mertens mount and attempted to straighten it. Mr Merten’s told the Stewards that his horse was weakening at the time and that your horse was approximately one and a quarter lengths clear of his horse when the interference occurred. He told the Stewards that you “sort of come into my line, he has put the whip away and tried to correct it, but it all happened probably a little bit too quick in the end and it shot sort of straight across my line”.

He described your horse as coming out abruptly when probably a length and a quarter clear of you.

You have asserted to the Stewards that when your horse drifted, you put your whip down and corrected her straight away.

As stated, I have viewed the video many times. The interference caused to Mr Mertens is certainly not major, but in my opinion it is there. It is also my opinion that you did not correct your mount and put the whip away at the time that you should have so done. The interference to Mr Mertens occurred as a result of your not putting the whip away as soon as you should have when the horse commenced to drift. You continued riding it vigorously. You persisted with this for just too long and the interference occurred. I repeat that it was by no means major interference, but it did occur.

The charge of careless riding has been proven to my comfortable satisfaction. I am satisfied that the charge has been made out and the appeal on liability is dismissed.

I shall hear the parties on the question of penalty.

**PENALTY**

I turn now to the question of penalty. The penalty imposed by the Stewards is of suspension for nine meetings.

I appreciate that your appeal on the question of liability has been dismissed. I would emphasise that it was by no means a frivolous appeal and that the ultimate interference suffered by Mr Mertens was very much at the low end of the scale.

No prior offence warranting suspension has been alleged against you.

I also note that you are a visiting jockey, returning to your native country in the immediate future.

In short, this was interference very much at the bottom of the scale and, as stated, the appeal was by no means frivolous.

In all the circumstances, and I again emphasise the nature of the interference, the appeal against penalty is upheld and the penalty of suspension is reduced to one of seven meetings.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal