

23 July 2020

DECISION

HARNESS RACING VICTORIA

and

MR RHYS NICHOLSON

Date of hearing:	21 July 2020
Panel:	Judge John Bowman (Chairperson).
Appearances:	Mr Shane Larkins appeared on behalf of the Stewards. Mr Rhys Nicholson represented himself.
Charge:	Australian Harness Racing Rule 156 (2) states "A driver shall only apply the whip in a wrist only flicking motion whilst holding a rein in each hand with the tip of the whip pointed forward in an action which does not engage the shoulder".
Particulars of charge:	The particulars of the charge being that over the concluding stages he applied the whip to his drive in an action which did not comply with a flicking motion, saw his shoulder engaged significantly outside the parameters of his body and his hand raised above shoulder height on multiple occasions. In assessing penalty stewards took into account that Mr Nicholson had breached the provisions of AR156(2) on no less than seven occasions within the last 22-day period and it was only two days since his last offence, where he was suspended for four weeks and fined \$500. In assessing all relevant sentencing principles and placing significant weight on specific deterrence, the licence to drive in races of Mr Nicholson was suspended for eight weeks to commence midnight 1 May 2020 which is at the conclusion of the four week suspension incurred at Melton on 28 March 2020.
Plea:	Guilty

DECISION

Mr Rhys Nicholson, you have pleaded 'guilty' to a breach of Rule 156 (2). It relates to your drive of 'Micton Mouse' at Cranbourne on 30 March 2020. The Stewards charged you with using an improper whip action, an offence which you have committed previously.

On this occasion, the Stewards initially imposed a penalty of suspension for eight weeks. At that time you were pleading 'not guilty'.

Very sensibly, you had further discussions with Mr Larkins and changed your plea to 'guilty'. Mr Larkins considered that, in the circumstances, the penalty sought by the Stewards would be one of six weeks. Of course, the ultimate decision is for the Tribunal.

Having heard what was put by Mr Larkins and having been given an outline of what has occurred. I have no hesitation in allowing the appeal and reducing the period of suspension to six weeks.

I congratulate both parties as to the very sensible approach that has been adopted in arriving at a mutually satisfactory penalty. It underlines the importance of entering the appropriate plea.

Mark Howard
Registrar, Victorian Racing Tribunal