

Non Raceday Inquiry RIU v B Weaver - Penalty Decision dated 3 January 2021 - Chair, Mr S Ching

Rules:

Repondent(s)/Other parties:

Name(s):

Decisions:

BEFORE A JUDICIAL COMMITTEE

IN THE MATTER of the New Zealand Rules of Harness Racing

IN THE MATTER of Information No. A12658

BETWEEN CLAIRE TIBBS

Stipendiary Steward for the Racing Integrity Unit

Informant

AND BRENT WEAVER,

Licensed Open Driver

Respondent

Date of Hearing: 3 January 2021

Venue: Rangiora Raceway

Judicial Committee: S Ching (Chair)

Present: C Tibbs, the Informant

B Weaver, the Respondent

S Renault, Stipendiary Steward

Date of Decision: 3 January 2021

PENALTY DECISION OF JUDICIAL COMMITTEE

The Charge

[1] Information No A12658 alleges that:

At the NZMTC meeting on 11 December 2020, Mr B Weaver as the driver of SILVER SURFER used his whip free of the rein for the majority of the home straight.

Mrs Tibbs produced a letter dated 23 December 2020, from the General Manager of the RIU, Mr M Godber, pursuant to Rule 1108(2), approving authorisation to lodge an Information against Mr Weaver, for a breach of Rule 869(2).

The Rules

[2] Rule 869(2) reads as follows: -

869 (2) No horseman shall during any race use a whip in a manner in contravention of the Use of the Whip Regulations made by the Board.

Relevant Part of the Whip & Rein Regulations as follows: -

WHIP AND REIN REGULATIONS

PART 3 USE OF THE WHIP

3.1 A driver may 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.

3.2 For the purposes of clause 3.1, "wrist only flicking motion" means:

3.2.1 Ensuring no force is generated by the use of the elbow or shoulder when applying the whip.

3.2.2 The forearm is not raised beyond forty-five degrees relative to the racing surface.

3.2.3 Not applying the whip with overt force.

3.3 A driver shall not use a whip in an unapproved manner.

3.4 For the purposes clause 3.3 a driver shall be deemed to have used the whip in an unapproved manner in the following

circumstances which are not exclusive:

3.4.1 If the whip is applied other than as permitted in clause 3.1.

3.4.2 If the whip is applied excessively, continuously, or without allowing the horse time to respond.

3.4.3 If the whip is applied when the horse:

3.4.3.1 is not visibly responding.

3.4.3.2 is not in contention.

3.4.3.3 cannot maintain or improve its position.

3.4.3.4 is clearly winning.

3.4.3.5 has passed the winning post at the finish of a race.

3.4.4 If the whip is used when the reins are lengthened so as to result in loose reining.

3.4.5 If the whip is used in a prodding or jabbing fashion.

3.5 A driver must not use the whip in a manner which causes injury to a horse.

3.6 A whip shall not be used in a manner that may obstruct, strike or endanger another driver or horse.

3.7 A driver must ensure a whip does not project outside his or her sulky.

The Plea

[3] Mr Weaver had endorsed the Information that the breach was admitted, which he confirmed to the hearing. Mr Weaver also confirmed he understood the charge and Rule it was brought under.

Facts

[4] On 11 December 2020, at the NZMTC meeting at the Addington Raceway, Open Driver, Mr B Weaver was the driver of SILVER SURFER in Race 2, the Fahey Fencing Hire Mobile Trot.

Informant's Submissions

[5] Mrs Tibbs gave evidence and showed video replays of the final 400m of the race.

[6] Mrs Tibbs pointed Mr Weaver driving SILVER SURFER, positioned one off the pylons and outside the leader as the field approached the 400m.

[7] Mrs Tibbs showed, using the side on video replay, that after passing the 400m, Mr Weaver crossed his reins, drew the whip and used it on 7 occasions in a fore hand manner.

Respondent's Submissions

[8] Mr Weaver stated that he had crossed the reins, reached down to activate the deafeners and inadvertently reverted to the old style of whip use without thinking, completely forgetting the new Whip and Rein Regulations. He realised further into the straight that he was using the whip outside the Regulations and changed back to a rein in each hand.

Decision

[9] Mr Weaver having admitted the breach, the charge was found proved.

Submissions of Informant on Penalty

[10] Mrs Tibbs stated that Mr Weaver had a clear record in regard to this Rule.

[11] Mrs Tibbs stated that Mr Weaver had driven on 13 occasions so far this season with a total of 39 drives last season and lifetime drives of 1306. She said the JCA Penalty Guide provides a \$500 fine or a 2-day suspension as starting points for a mid-range breach of this Rule.

[12] Mrs Tibbs stated that this breach was mid to high level and submitted that a fine of \$500, as per the Penalty Guide, be considered as penalty in this case.

Submissions of Respondent's on Penalty

[13] Mr Weaver stated that he thought a \$500 fine was excessive and asked for consistency in penalty after citing several recent whip penalties that he believed were similar to his breach. He added that a \$500 fine would be a hardship for him and requested that a joint fine and suspension be considered as penalty. The Stewards did not object to a combined penalty for Mr Weaver as long as it was meaningful.

[14] Mr Weaver stated that he had several horses in work and could be driving as much as 4 times per race day in the future.

Reasons for Penalty

[15] The JCA Penalty Guide provides a \$500 fine or 2-day suspension as a starting point for a medium level breach of this Rule. Mid-level offending is defined in the Guide as when a driver inadvertently reverts to the old style (freehand, loose reining and/or more than a flicking motion) and continues to drive in this manner for some distance (50m) before taking corrective steps to return to a compliant style of driving. The Committee assessed this breach as above mid-range with all factors of a mid-range breach present. Mr

Weaver inadvertently reverted to the old style of freehand, loose reining and used the whip on 7 occasions-mid range in force, being more than a flicking motion. He also continued to drive in this manner for approximately 150m before reverting back to a compliant style of driving.

[16] The Committee, after taking into consideration, submissions from Mrs Tibbs and Mr Weaver, determined that a combined penalty was appropriate in this case. Mr Weaver's historic driving record showed 39 drives last season and 13 so far this season which on average is 1.5 drives per week. Mr Weaver stated that he had 4 horses at racing fitness and submitted he could be driving more on raceday in the future. In assessing a meaningful penalty in regard to the suspension we have determined that on average Mr Weaver may drive on 2 occasions per relative meeting and therefore the Committee decided that a 3-day suspension be imposed. In addition, Mr Weaver is fined the sum of \$200.

Penalty

[17] Mr Weaver is suspended from the conclusion of racing today, 3 January up to and including 17 January 2021. Relevant meetings encompassed in this period of suspension are Ashburton, 12 January – Marlborough, 15 January and Marlborough, 17 January 2021. In addition, Mr Weaver is fined the sum of \$200.

S Ching

Chair

Penalty: