

# STEWARDS DECISION

## OFFICE OF RACING INTEGRITY

and

### MR NATHAN FORD

<b>Date of Decision:</b>	29 November 2024
<b>Stewards Panel:</b>	Dayle Brown (Chair); Larry Wilson and Barry Delaney.
<b>Respondent:</b>	Mr Nathan Ford
<b>Rule:</b>	Australian Harness Racing Rule 149(1)

*A driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field.*

<b>Charge 1:</b>	<p>On 26 February 2023, you drove 'Priddy Sublime' in Race 9, the Dakin Refrigeration Stakes, at the Launceston race meeting. You failed to take all reasonable and permissible measures to win or obtain the best possible placing in the field when:</p> <ol style="list-style-type: none"><li>leaving the 600 metre mark in the back straight on the final occasion, you deliberately restrained your horse three quarters of a length from a favourable position behind the leader in an endeavour to shift out to take a position behind Turquoise Stride leading the one out line;</li><li>when attempting to shift Kermadec up the track from his position behind Turquoise Stride and jostling for that position, the sulky wheels then made contact for a considerable distance placing pressure on Priddy Sublime; and</li><li>as a result of the pressure applied to shift Kermadec up the track, Priddy Sublime lost momentum and went back through the field and lost ground shortly after and was not competitive for the rest of the race.</li></ol>
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**Plea:** Not Guilty

**Penalty:** 10 Week suspension, effective date of 2 December 2024

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## Background

1. The Independent Stewards Panel (**ISP**) was appointed on 22 February 2024; the Director of Racing, Mr Robin Thompson, issued a direction to the Panel to conduct an investigation pursuant to Rule 181 of the Australian Harness Racing Rules (**AHRR**).
2. Part A of the direction was the highest priority, and the ISP then reviewed fifteen races potentially involving questionable race tactics, as identified in Mr Ray Murrphy's letter to the Premier of Tasmania dated 28 November 2023 and referenced in Mr Murrphy's Final Report. The ISP undertook the investigation to consider any appropriate and relevant action pursuant to AHRRs 181 and 183.
3. The ISP conducted a review of Race 9, The Dakin Refrigeration Stakes, conducted at Launceston on 26 February 2023. The ISP reviewed the driving tactics of 'Priddy Sublime' driven by Mr Nathan Ford, and 'Kermadec' driven by Mr Charlie Castles, including an incident leaving the back straight on the final occasion involving both driver's horses.
4. The ISP interviewed Mr Castles on 8 April 2024 about the driving tactics on 'Kermadec' and an incident leaving the back straight on the final occasion involving 'Priddy Sublime' driven by Mr Ford.
5. The ISP then interviewed Mr Ford on 16 April 2024 about the driving tactics on 'Priddy Sublime', including an incident leaving the back straight on the final occasion, involving 'Kermadec' driven by Mr Castle.
6. The ISP also reviewed an interview conducted by Office of Racing Integrity (**ORI**) Stewards on 1 May 2023, into Race 9, The Dakin Refrigeration Stakes, held at Launceston on 26 February 2023. The inquiry appeared to question the tactics concerning the drive of Mr Ford on 'Priddy Sublime'. During this inquiry the incident leaving the back straight on the final occasion involving Mr Ford driving 'Priddy Sublime' and Mr Castles driving 'Kermadec' was not inquired into, as Mr Castles was not called to the inquiry. The inquiry was adjourned on 1 May 2023 to obtain betting records. Then on 7 May 2023 when the inquiry was reconvened, the Chairman stated the following at the inquiry's conclusion:

*CHAIRMAN: Mr Ford, just continuing on with that inquiry from the other. We've had a look at the betting, there's nothing there. We've satisfied with what you've told us. We are not going to take the matter any further, but circumstances of the race, you drove and made decisions as your going, probably wasn't the best decision in the long run, but we fully understand what, you make a decision at the time...*

MR FORD: Yep.

CHAIRMAN: ...it was reasonable. All we can say is, just be careful making decisions that can leave your drives to be questioned...

MR FORD: Yep.

7. After considering these matters the ISP opened an inquiry into Race 9 – Dakin Refrigeration Stakes at Launceston on 26 February 2023. Both Mr Castles the driver of 'Kermadec' and Mr Ford the driver of 'Priddy Sublime' were directed to attend the inquiry on 15 August 2024.
8. At the inquiry on 15 August 2024, the ISP reviewed the footage of Race 9, The Dakin Refrigeration Stakes and heard evidence from Mr Ford and Mr Castles. The ISP adjourned the inquiry to consider the evidence.
9. On 30 September, the ISP issued Mr Nathan Ford with a charge under AHRR 149 (1).
10. On 22 October 2024, Mr Ford wrote to the ISP and:
  - a. pleaded not guilty to the charge, and
  - b. provided short reasons to support his not guilty plea.

## Findings

11. The standard of proof is referred to in the well-known High Court case of *Briginshaw v Briginshaw* (1938) CLR 336. The ISP must have a reasonable degree of satisfaction, or to put it another way, the ISP must be comfortably satisfied that the charge has been proven. The ISP must take into account the seriousness of the allegation and the gravity of the consequences that may flow from a particular finding. The conduct alleged is such that it should not be found proved without clear proof. As such, findings are made only where the ISP has achieved the requisite degree of satisfaction appropriate to the charges laid.

## The test

12. The rule imposes an objective standard of care. The standard of care takes into account, amongst other things, the views and explanations of the driver and the views and opinions of the Stewards. A mere error of judgment is not a sufficient basis for a finding that the AHRR 149(1) has been breached. The driver's conduct must be culpable because, when objectively judged, it is found to be blameworthy and deserving of punishment.
13. The ISP found that:
  - a. Mr Nathan Ford's movement to restrain his horse by three quarters of a length before leaving the back straight on the final occasion left a favourable position behind the leader 'Queen of Dance'; and
  - b. this movement was not a mere error of judgement but an error in the circumstances that objectively judged by the ISP was culpable.

14. In the ISP's view, this error of judgment cost Mr Ford's drive on 'Priddy Sublime' the opportunity to win or obtain the best possible placing in the race. Mr Ford's deliberate action to:
  - a. shift out from behind the leader 'Queen of the Dance'; and
  - b. shift up the track, coming into contact with Mr Castle's drive 'Kermadec', ultimately led to 'Priddy Sublime' losing all momentum when it was always open for Mr Ford to stay on the back of 'Queen of the Dance' at the stage in the race.

### **Penalty Approach**

15. Turning to the matter of penalty the ISP are cognisant of the following Sentencing Principles:
  - a. That penalties are designed to punish the offender for his/her wrongdoing. They are not meant to be retributive in the sense that the punishment is disproportionate to the offence, but the offender must be met with a punishment.
  - b. In a harness racing context, it is very important that a penalty has the effect of deterring others from committing similar offences through the consideration of both general and specific deterrence.
  - c. In determining what, if any, penalty is to be imposed, the Stewards endeavour to reach a proportionate balance between: the public interest; the interests of the offender; the interests of the industry as a whole; the seriousness of the offending; and any aggravating/mitigating factors.

### **Respondents Penalty Submissions**

16. In his short submission to the ISP, on 19 November 2024, Mr Ford indicated the following matters should be taken into account:
  - a. his drive was previously considered by a stewards panel;
  - b. he has served a warning off period of 10 weeks as a result of the matters the subject of the ISP inquiry which should be taken into account in the setting of any penalty decision;
  - c. there was no malice in the conduct, which is more appropriately described as an incorrect racing move; and
  - d. submits a penalty within 4 – 6 race meetings is within range.

### **Penalty Discussion**

17. The ISP have carefully considered and taken into consideration the relevant evidence in this matter and Mr Ford's submissions. The ISP has also reviewed previous penalties that have been handed down for similar matters under AHRR 149 (1).

18. The ISP has considered relevant previous precedent penalties, Mr Ford's driving record and the circumstances that led to the breach of AHRR 149 (1).
19. Having taken into account all the circumstances relevant to this matter and recent penalties in like matters, for his breach of AHRR 149 (1) the ISP has determined to suspend Mr Ford's driver's licence for a period of 10 weeks.
20. The effective date of the suspension is 2 December 2024.

**Decision Date:** 29 November 2024