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## **APPEAL DECISION**

**ETHAN BROWN**

*and*

**RACING VICTORIA STEWARDS**

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**Date of Hearing:** 7 September 2017

**Heard By:** Brian Forrest (Deputy Chair)

**Appearances:** Brett Wright appeared on behalf of the stewards.  
Michael Kent and Darren Gauci appeared on behalf of Ethan Brown.

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At Pakenham on Thursday 31 August 2017, apprentice jockey Ethan Brown was found guilty of a charge of careless riding on his mount *Adalita* in Race 5 the *Brady Carpet Court BM64 Handicap* (1200m).

The carelessness being that near the 150m he failed to make sufficient effort to prevent his mount shifting in and tightening the running of *What A Hoot (NZ)* resulting in its rider being obliged to take hold when racing close to the heels of *Adalita*.

Mr Brown had his permit to ride in races suspended for a period to commence at midnight on Saturday, 2 September 2017 and to expire at midnight on Monday, 11 September 2017 – a total of 9 race meetings (2 metro, 7 provincial).

In assessing penalty, Stewards took into account that he made some effort to correct his mount and that the carelessness was in the low range.

A Notice of Appeal against the **decision and severity of the penalty** was lodged on Saturday, 2 September 2017.

A stay of proceedings was granted effective to midnight Wednesday, 6 September 2017.

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**DECISION:** Appeal against conviction dismissed.  
Appeal against severity of penalty allowed.

Taking into account the stay of proceedings, the period of suspension will now expire at midnight on Tuesday, 12 September 2017 (6 race meetings).

**Georgie Gavin**  
**Registrar - Racing Appeals & Disciplinary Board**

**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**MR B. FORREST, Deputy Chairman**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**ETHAN BROWN**

**and**

**RACING VICTORIA STEWARDS**

**RACING VICTORIA CENTRE, FLEMINGTON**

**THURSDAY, 7 SEPTEMBER 2017**

MR M. KENT and MR D. GAUCI appeared on behalf of Mr E. Brown

MR B. WRIGHT appeared on behalf of the RVL Stewards

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DEPUTY CHAIRMAN: Apprentice jockey Ethan Brown has appealed a careless riding conviction and a nine race meeting penalty for his ride on Adalita in race 5 at Pakenham on 31 August. The charge was that near the 150-metre mark, he failed to make sufficient effort to prevent his mount shifting in and tightening the running of What A Hoot, resulting in Jake Noonan, its rider, being obliged to take hold and racing close to the heels of Adalita. The race film demonstrated that Adalita does shift in and tighten What A Hoot.

Ethan Brown at both the Stewards' panel race-day inquiry and this appeal has claimed that he did his best to straighten his mount; in other words, did what could reasonably be expected of him to straighten his mount after it began to shift in and tighten What A Hoot. As appears from the film, he stopped riding his mount out, changed his whip to the left hand and, with added pressure on the right rein, turned the horse's head out and effectively pulled his mount out.

The Stewards disagree with his claim of best endeavours. The Stewards believed he would have had better control of his mount if both hands were on the reins. As to whether Adalita may have reacted differently had it been ridden in this way when the interference occurred was a matter of lively debate. Mr Kent, his master, who represented Ethan Brown, said it would have made no difference. However, as to what may have occurred had the jockey done so is, in essence, speculation.

Mr Kent submitted that his actions were not careless, that he responded as soon as the horse went in and that the horse inside, What A Hoot, contributed to the interference. Here I note that Ethan Brown was aware that his mount had a tendency to lay in under pressure as had occurred when he previously rode the horse.

The question for the Board is whether, viewed objectively, the riding was reasonable in the circumstances and therefore not characterised as careless. Having viewed the race film and considered the evidence and submissions of both Mr Wright and Mr Kent, I accept that while Ethan Brown took steps to correct his mount whilst shifting in, they were not of sufficient force for the charge to be dismissed. I accept there was tightening from the outside and his mount shifted in for two to three strides. I do not accept that the horse inside Jake Noonan's had any significant effect on the interference.

I regard the level of carelessness objectively viewed to be low and that Ethan Brown took demonstrable efforts to minimise the effect of the interference. These are relevant to the question of penalty. For this, the Stewards made an allowance of one day from the upper limits of the guideposts they used for lower-range penalties. In my opinion, the penalty should recognise to a greater extent the jockey's endeavours in taking corrective action so as to lessen the degree of interference.

Consequently, taking that into account, I would allow a further three meetings' discount, in total a suspension of six meetings, as Ethan Brown had, until last

night, 6 September, as I understand it been riding on a stay of proceedings.

The original suspension which, if stood, would have expired on 15 September, is now varied to expire at midnight, 12 September 2017.

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