

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 19 August 2013

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: LUKE NOLEN**

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy), Mr Ron Taylor.

Appearances Mr Des O’Keeffe appeared on behalf of Mr Nolen.
Mr James Hitchcock appeared on behalf of the Stewards.

At Geelong Synthetic on Friday 16 August 2013, jockey Luke Nolen was found guilty of a charge of careless riding on his mount *Leadfoot* in Race 1 the *GRC Function and Event Centre Maiden Plate* (1100m).

The careless riding being that shortly after passing the 800m he carelessly permitted his mount to shift in when not sufficiently clear of *Steel Force* which was checked by its rider.

Mr Nolen had his licence to ride in races suspended for a period to commence at midnight on Saturday, 17 August 2013 and to expire at midnight on Saturday, 24 August 2013 - a total of 7 meetings (2 metro, 5 provincial).

In assessing penalty Stewards took into account L Nolen’s good riding record and that the careless riding was in the low range.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Saturday, 17 August 2013.

A stay of proceedings was not requested.

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

Penalty varied – the period of suspension to now expire at midnight on Friday, 23 August 2013 (6 race meetings).

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. FORREST
MR R. TAYLOR**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE GRC FUNCTION AND EVENT CENTRE
MAIDEN PLATE OVER 1100 METRES AT GEELONG SYNTHETIC
ON 16/8/13**

JOCKEY: LUKE NOLEN

MELBOURNE

MONDAY, 19 AUGUST 2013

MR J. HITCHCOCK appeared on behalf of the RVL Stewards

MR D. O'KEEFFE appeared on behalf of the Appellant

CHAIRMAN: In this appeal, the evidence upon which the Stewards rely is limited, in that there is no Stewards' tower observation and the film of the incident is unfortunately of limited value because of the absence of a head-on shot.

The Stewards' case is that Luke Nolen permitted his mount to shift in, causing interference to Brad Rawiller's mount. In saying that, the Stewards conceded that the shift was marginal. Nevertheless, they decided that Nolen was careless, rejecting Rawiller's evidence that the behaviour of his, Rawiller's, mount compounded the problem; indeed, that it was his mount which was responsible.

The Board agrees that the Appellant Luke Nolen's mount did shift when he was not entitled to do so, but that degree of carelessness was at the lower end of the low range of carelessness. That said, the Board cannot be satisfied that the interference was entirely caused by Nolen's mount.

The Stewards rejected Rawiller's evidence entirely and that rejection was based on their interpretation of the available film. The Stewards did not reject Rawiller's evidence on the basis of his lack of credibility. Since the film was inconclusive and since there was no direct head-on shot of the two horses at the point where the incident occurred, the Board is not satisfied that there was a complete absence of contribution, albeit minor, which the Appellant is entitled to have taken into account on the question of penalty.

In all the circumstances in this rather difficult appeal, the penalty is varied to expire at midnight on Friday, 23 August 2013. That means of course that the appeal against conviction is dismissed but the appeal against penalty is varied as I have indicated.
