



## **APPEAL OF MATTHEW HART: AR 137A**

**Appeal Committee: Mr John Stewart (Chairman) and Mr Charles Burkitt**

**Date of Hearing: 13 March 2012 and 10 April 2012**

### **REASONS FOR DECISION**

On 4 March 2012 Stewards found Jockey Hart in breach of AR 137A (4) (b) which prohibits a rider “using an action that raises his arm above shoulder height”. They invoked AR 196 (2) which allows the Stewards to order forfeiture of the rider’s riding fee.

Jockey Hart admitted the offence but appealed against the severity of the penalty on these grounds: “...this was my first offence and I have never been reprimanded for the same offence.”

At the hearing of the appeal Jockey Hart was represented by Mr Carl Spry on the first day and Mr Troy Walsh on the second day. The Stewards were represented by Ms Lee Twomey. By consent we proceeded by viewing the video of the race but without adverting to the transcript of the Stewards’ inquiry.

Jockey Hart was riding “Bandit Country” in Race 2 at Alice Springs on 4 March 2012. The video provided clear evidence that he used the whip above shoulder height with a forehand action about 8 times from the 200 metre mark to the finishing post. A Stewards’ report reveals that he was reminded on 12 February 2012 about use of the whip in breach of the same sub-rule although on that occasion the report refers to backhand use.

Using the whip above shoulder height, whether forehand or backhand, is prohibited. In this way the force of the strike is contained.

It is true that Jockey Hart did not previously receive a reprimand but the warning of 12 February 2012 should have given him a clear understanding of his obligations.

The current rules in relation to the use of the whip came into force on 1 August 2009. Since then Jockey Hart was found guilty of excessive use of the whip on four occasions prior to 4 March 2012. These breaches all involved another sub-rule of Rule 137A. The first breach resulted in a reprimand; the last three resulted in forfeiture of the riding fee.

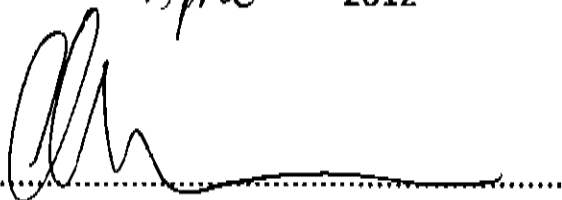
Stewards have informed us that they did not take into account the above breaches when dealing with Jockey Hart on this occasion. To their minds relevant considerations were the previous reminder and the gravity of this breach. That noted, it might be expected that forfeiture of the riding fee on 3 previous occasions would encourage a rider to make every effort to comply with the requirements of Rule 137A.

Jockey Hart's representatives raised the issue of consistency. They pointed out that other riders have received the benefit of a reprimand for a breach of sub-rule (4)(b). Stewards informed us that reprimands have been reserved for minor breaches of the sub-rule. There is no evidence to the contrary. This breach could not be regarded as minor.

In our view Jockey Hart committed a relatively serious breach of sub-rule (4)(b) on 4 March 2012. There was no excuse given the straightforward terms of sub-rule (4)(b) and that the reminder preceded the offence by only 3 weeks. Forfeiture of the riding fee was the appropriate penalty.

The Stewards' decision is confirmed. The appeal deposit is forfeited.

Dated 30 April 2012

A handwritten signature in black ink, appearing to be 'John Stewart', written over a horizontal dotted line.

John Stewart  
Chairman