

***Harness***  
**Racing Appeals & Disciplinary Board**

# Media Release

## Racing Appeals & Disciplinary Board

Result of the appeals held before the HRV Racing Appeals and Disciplinary Board on 8 February 2017.

### **Nathan Jack**

Against restrictions imposed by the Stewards under Rule 183 (c) and (d) against Mr Jack.

**Appeal upheld, no restrictions remaining against Mr Jack.**

HRV RAD Board Panel: Tony Burns (Chairman) / Brian Collis

Appellant Representative: Damian Sheales  
HRV Representative: Paul Czarnota

### **Brocq Robertson**

Against restrictions imposed by the Stewards under Rule 183 (c) and (d) against Mr Robertson.

**Appeal upheld, no restrictions remaining against Mr Robertson.**

HRV RAD Board Panel: Tony Burns (Chairman) / Brian Collis

Appellant Representative: Damian Sheales  
HRV Representative: Paul Czarnota

The Racing Appeals & Disciplinary Board (RADB) is established under section 50B of the Racing Act (1958). The RADB is an independent Board established to hear and determine appeals in relation to decisions made under the rules to impose penalties on persons and to hear and determine charges made against persons for serious offences.

## **Amanda Turnbull**

Against restrictions imposed by the Stewards under Rule 183 (c) and (d) against Ms Turnbull.

### **Appeal upheld, no restrictions remaining against Ms Turnbull.**

HRV RAD Board Panel: Tony Burns (Chairman) / Brian Collis

Appellant Representative: Sam Tovey

HRV Representative: Paul Czarnota

## **Lisa Bartley**

Against restrictions imposed by the Stewards under Rule 183 (c) and (d) against Ms Bartley.

### **Appeal upheld, no restrictions remaining against Ms Bartley.**

HRV RAD Board Panel: Tony Burns (Chairman) / Brian Collis

Appellant Representative: Hamish Cockburn

HRV Representative: Paul Czarnota

## **Mark Pitt**

Against restrictions imposed by the Stewards under Rule 183 (c) and (d) against Mr Pitt.

### **Appeal upheld, no restrictions remaining against Mr Pitt.**

HRV RAD Board Panel: Tony Burns (Chairman) / Brian Collis

Appellant Representative: Hamish Cockburn

HRV Representative: Paul Czarnota

# **TRANSCRIPT OF PROCEEDINGS**

## **RACING AND DISCIPLINARY BOARD**

**ANTHONY BURNS, Chairman**

**BRIAN COLLIS, Member**

## **EXTRACT OF PROCEEDINGS**

**NATHAN JACK  
BROCQ ROBERTSON  
AMANDA TURNBULL  
LISA BARTLEY  
MARK PITT**

## **DECISION**

**WEDNESDAY 8 FEBRUARY 2017**

**MR P CZARNOTA appeared on behalf of the HRV Stewards**

**MR D SHEALES appeared on behalf of MR JACK AND Mr ROBERTSON**

**MR S TOVEY appeared on behalf of MS TURNBULL**

**MR H COCKBURN appeared on behalf of MS BARTLEY AND MR PITT**

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This investigation commenced over 18 months ago and an earlier suspension and stay application was dealt with by this Board on 14 September 2016.

Four of the five applicants were recently charged with criminal offences pursuant to the betting outcome provisions of the Crimes Act. These are to be dealt with in the indictable stream and assuming a contest will be through to a committal then trial in the County Court. It is reasonable to presume that the matters will not resolve at least until late in 2018 and possibly even well into 2019.

The Stewards take the suspension action that they have taken in support of the integrity of the industry and its reputation in the eyes of the public.

The integrity of the industry is however a two way street. To have integrity the

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system must honour the principles of procedural fairness and natural justice towards its participants.

Criminal charges are now filed but must be weighed against the presumption of innocence.

As said in September 2016, by this Board, the fact that charges of themselves carries little weight, it is the evidence underlying those charges which is relevant.

The applicants have not been charged by the Stewards under the Australian Rules of Harness Racing. As to the evidence that has been provided the authorities are clear that cogent and compelling reasons would need to be present to justify any suspension from an industry that provides the livelihood for these applicants. This Board is not privy to the evidence in the police brief. The evidence provided is suggestive of a circumstantial case but one that is denied by the applicants.

There are no certificates creating conclusive proofs here as there were in Demmler before VCAT, a citation of which is 2015 VCAT 648. That was a case against the Tribunal even in the face of conclusive proofs allowed a stay.

Any suspension here approved will effectively ruin the livelihoods of the applicants.

The need to ensure the integrity and reputation of harness racing is indeed a most important consideration.

The public is sophisticated enough however to understand the difference between where charges are laid with the concomitant presumption of innocence and where charges are proven.

Given the suspension here it may create unrecoverable consequences for the applicants. We are not satisfied that the need to protect the integrity of the industry outweighs the damage to the reputation and livelihood of these applicants. Indeed nor are we satisfied that the integrity of the industry will be harmed by the continued involvement of these applicants in the sport pending the outcome of charges.

Accordingly, the decision of the Stewards to suspend all the applicants is stayed.

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