

RACING APPEAL PANEL NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY SERG LISNY

APPEAL PANEL: Mr L Vellis (Convenor)
Ms J Masden
Mr J Murphy

APPEARANCES: Mr Van Gestel appeared for the Stewards
Mr T Crisafi for the Appellant S Lisnyy

Date of Hearing: 20 November 2020

Date of Orders: 20 November 2020

REASONS FOR DECISION

1. On November 11, 2020 Licensed Jockey Mr Serge Lisnyy pleaded guilty to a charge under AR 139(1)(a) of the Australian Rules of Racing in that he did, after riding at the Kembla Grange races meeting on Thursday, 17 September 2020, provide a sample of urine which, upon analysis, was found to contain codeine and morphine at total concentration in excess of 15,000 micrograms per litre, which constitutes a prohibited substance under AR 136(1)(i) and AR 136(2) of the Rules.
2. Serg Lisnyy has changed his plea to not guilty, although the Panel is not satisfied that there is evidence to justify any finding other than guilty under AR 139(1) in that a banned substance under AR 136(1) was detected in a sample taken from Mr Lisnyy, that substance being codeine and morphine at a total concentration of 21,160 micrograms, which constitutes a prohibited substance under AR 136(1)(i) and AR 136(2). Mr Lisnyy did not dispute the validity of the Jockey Testing Certificate ARF20/2539B.
3. It is the responsibility of Mr Lisnyy to ensure that he knows what medication and substances are entering his body as a licensed person. Mr Lisnyy has strict liability for monitoring his intake of medicine, whether such medicine has been prescribed or

not. There are serious safety considerations to be considered, both with respect to other jockeys and horses and Mr Lisnyy himself.

4. While the Panel acknowledges Mr Lisnyy's good record in such matters and found him to be a credible witness, both of which we considered in our assessment of penalty, we cannot arrive at a finding other than guilty.
5. The Panel issues the following orders:
 1. The appeal is dismissed.
 2. The penalty imposed by the Stewards on 11 November 2020 is confirmed, which was a suspension of Mr Lisnyy's licence to ride in races for a period of three weeks. Given that Mr Lisnyy was stood down from riding by Stewards on Friday, 30 October 2020 and not permitted to resume until Tuesday, 3 November 2020, Mr Lisnyy's licence to ride in races is suspended for a further period of 17 days, commencing on Saturday, 21 November 2020 and expiring on 8 December 2020, on which day he may ride.
 3. The appeal deposit is forfeited.
