

## **RACING NEW SOUTH WALES APPEAL PANEL**

### **IN THE MATTER OF THE APPEAL OF SERG LISNY**

Appeal Panel:	<b>Mr R Beasley SC – Principal Member</b> <b>Mr K Langby</b> <b>Mrs J Foley</b>
Appearances:	<b>Racing NSW: Mr P Dingwall, Deputy Chairman of Stewards</b> <b>Appellant: Mr P O’Sullivan, Solicitor</b>
Date of Hearing:	<b>26 November 2018</b>
Date of Reasons	<b>26 November 2018</b>

#### **REASONS FOR DECISION**

1. On 19 November 2018, the appellant, licenced jockey Mr Serg Lisny, rode the racehorse *Shalama* in race 4 at the race-meeting at Scone that day, over 1100m.
2. Following the race, the Stewards’ conducted an inquiry, and charged Mr Lisny with careless riding in breach of AR 137(a). The particulars of the offence were that Mr Lisny:

*“...did allow your mount to shift out near the 200m, when insufficiently clear of Moonlight Spy, which was carried away from its path and, when being checked, bumped heavily with St Luke, resulting in St Luke becoming unbalanced and Moonlight Spy losing its running.”*

3. Mr Lisny pleaded not guilty, but was found to have breached the rule. His carelessness was graded as medium, with a consequence of “checked/lost rightful running”. On the application of the careless riding penalty guidelines, he was penalised with a 6-meeting suspension.

4. On appeal, the Stewards were represented by Mr P Dingwall, Deputy Chairman of Stewards. Mr Lisnyy was represented with leave by Mr P O'Sullivan, solicitor.
5. The appeal book was tendered and marked as Exhibit A, and the film of the race, taken from multiple angles, was Exhibit B. Mr Lisnyy also gave evidence explaining his ride.
6. Mr Lisnyy said he did not cross the horse Moonlight Spy, kept his line, and that any interference subsequently caused to Moonlight Spy was as a result of St Luke shifting in.
7. Mr O'Sullivan made similar submissions, and also submitted that if the Panel were against the appellant on the breach appeal, the carelessness should be graded as low, not medium.
8. Having watched the film of the race from two angles several times, the Panel's view is that it clearly supports the particulars of the charge. Mr Lisnyy shifted out when insufficiently clear of Moonlight Spy. He caused a bump, as conceded more than once during the Stewards' Inquiry. Moonlight Spy was checked. It contacted St Luke with a significant bump. St Luke reacted to that, and Moonlight Spy was again interfered with.
9. Having watched the film the Panel is comfortably satisfied that Mr Lisnyy's conduct constitutes careless riding. We are comfortably satisfied that the grade is a medium degree of carelessness. We are comfortably satisfied that there was no relevant contribution to the incident by St Luke. It all started with the appellant shifting out when he should not have, and in him not correcting his riding after initially bumping Moonlight Spy.
10. The appeal against the finding of breach of the rule is dismissed. We see no reason to depart from the penalty guideline, so the appeal against penalty is also dismissed.

11. The Panel makes the following orders:

1. Appeal against finding of breach of AR 137(a) dismissed
2. Breach of AR 137(a) confirmed.
3. Appeal against severity of penalty dismissed.
4. Penalty of a 6-meeting suspension confirmed, such suspension commencing on 25 November 2018, and expiring on 2 December 2018, on which day the appellant may ride.
5. Appeal deposit forfeited.