



INQUIRY AND HEARING OF CHARGES ISSUED AGAINST LICENSED JOCKEY SERG LISNY AND LICENSED TRAINER MRS KIM WAUGH IN RESPECT TO THE RACEHORSE TARSUS SUSTAINING MULTIPLE LACERATIONS AND ABRASIONS AFTER BEING RIDDEN WITH SPURS AT WYONG RACECOURSE ON 20 MARCH 2021 AND FURTHER AN INQUIRY INTO PRE-APPRENTICE MR JAKE BARRETT STRIKING TARSUS ON 22 MARCH 2021.

Stewards: M F Van Gestel (Chairman)
S G Railton
J J Earl

20 May 2021

Following the receipt of a complaint, on 25 March 2021 Racing NSW Stewards and Investigators commenced an investigation into an allegation that the racehorse Tarsus, trained by licensed trainer Mrs Kim Waugh, had been injured whilst being ridden in trackwork by licensed jockey Mr Serg Lisny at Wyong racecourse on 20 March 2021 when he was wearing spurs. The complaint also alleged that pre-apprentice jockey Mr Jake Barrett had struck Tarsus on 22 March 2021.

A brief of evidence was provided by Racing NSW Investigators, who interviewed a number of witnesses. On 13 April 2021, an inquiry was conducted whereby evidence was taken from the relevant witnesses and from Racing NSW General Manager – Veterinary Services Dr Toby Koenig and Official Veterinarian Dr Kristi Arnot. The inquiry was adjourned to consider the evidence.

On 4 May 2021 Stewards issued the following charges which were heard and determined today.

Mr Serg Lisny

1. Charge 1 – AR231

Committing an act of cruelty on the racehorse Tarsus on 20 March 2021, by using spurs on Tarsus in a manner that mistreated the horse and resulted in Tarsus sustaining injuries to its off side flank region.

Plea: Not Guilty Finding: Guilty

2. Charge 2 – AR125

Using spurs on Tarsus on 20 March 2021 which were not blunt and not approved by Racing NSW.

Plea: Not Guilty Finding: Guilty

3. Charge 3 - AR134

Using spurs on Tarsus on 20 March 2021 in an excessive and/or improper manner.

Plea: Not Guilty Finding: Guilty

Penalty Considerations – S Lisnyy

The following penalties were issued after considering all of the relevant matters in respect to penalty which included;

1. There was no intent to injure Tarsus and the injuries occurred due to improper and/or excessive use of the spurs.
2. Mr Lisnyy's good standing in the thoroughbred racing industry with no prior similar offences.
3. Personal and professional circumstances
4. Principle of specific and general deterrence and what message is sent to the industry in respect to such conduct.
5. Purpose for issuing penalties as a protective measure for the integrity of the thoroughbred Industry.

Charge 1 – AR231 – 6 months disqualification

Charge 2 – AR125 – 1 month suspension

Charge 3 – AR134 - 6 months disqualification

Have considered the totality of the offending conduct, Stewards determined that the penalties be served concurrently to commence on 20 May 2021 and to expire on 20 November 2021.

Mrs Kim Waugh

1. Charge 1 - AR231(1)(b)(i)

Failing to exercise reasonable care and/or supervision to Tarsus to prevent an act of cruelty on 20 March 2021.

Plea: Guilty

2. LR52

Failing to report a suspected breach of the Rules of Racing in that Tarsus had been mistreated on 20 March 2021.

Plea: Guilty

3. AR228(b)

Improper conduct towards an employee who reported the mistreatment of Tarsus to Racing NSW Stewards.

Plea: Guilty particulars 1-3 Finding: Not Guilty particular 4

Penalty Considerations – K Waugh

The following penalties were issued after considering all of the relevant matters in respect to penalty which included;

1. There was no intent to injure Tarsus and the injuries occurred due to improper and/or excessive use of the spurs.
2. Mrs Waugh was not present at Wyong racecourse on 20 March 2021 but had instructed S Lisnyy to use the spurs.
3. Early guilty plea at first available opportunity
4. Her good standing in the thoroughbred racing industry with no prior similar offences.
5. Personal and professional circumstances
6. Principle of specific and general deterrence and what message is sent to the industry in respect to such conduct.
7. Purpose for issuing penalties as a protective measure for the integrity of the thoroughbred Industry.

Charge 1 – AR231(1)(b)(i) – \$10,000 reduced to \$7,500 for guilty plea.

Charge 2 – LR52 – \$8,000 reduced to \$6,000 for guilty plea.

Charge 3 – AR228(b) \$1000 reduced to \$750 for guilty plea.

Mr Jake Barrett

1. AR228(b)

Improper conduct on morning of 22 March 2021 he did dismount Tarsus and kick the horse in the stomach region.

Plea: Guilty

Penalty Considerations – J Barrett

The following penalty was issued after considering all of the relevant matters in respect to penalty which included;

1. Early guilty plea at first available opportunity.
2. Contrition shown.
3. Personal and professional circumstances, including his young age.

4. Principle of specific and general deterrence and what message is sent to the industry in respect to such conduct.
5. Purpose for issuing penalties as a protective measure for the integrity of the thoroughbred Industry.

Charge 1 – AR228(b) - \$2000. Stewards ruled that under AR283(5) \$1000 of the penalty would be suspended on the basis Mr Barrett does not breach the conduct rules within the next 2 years.

Relevant Rules

AR 125 Riders permitted to use blunt and approved spurs

Riders may use spurs provided they are blunt and of a type approved by Racing Australia, a PRA, or the Stewards.

AR 134 Excessive, unnecessary or improper use of spurs

In a race, official trial, jump-out or trackwork, or elsewhere, a rider must not use his or her spurs in an excessive, unnecessary or improper manner.

AR 228 Conduct detrimental to the interests of racing

A person must not engage in:

- (b) misconduct, improper conduct or unseemly behaviour;*

AR 231 Care and welfare of horses

(1) A person must not:

- (a) commit or commission an act of cruelty to a horse, or be in possession of any article or thing which, in the opinion of the Stewards, is capable of inflicting cruelty to a horse;*
- (b) if the person is in charge of a horse – fail at any time:
 - (i) to exercise reasonable care, control or supervision of the horse so as to prevent an act of cruelty to the horse;**

LR 52. *Upon a licensed person having reasonable grounds to suspect a contravention of a Rule of Racing, he or she must report same to the Stewards as soon as practicable.*

**M F VAN GESTEL
CHAIRMAN OF STEWARDS
GENERAL MANAGER - INTEGRITY**