



DECISION OF THE FEI TRIBUNAL

dated 20 July 2007

Alleged Abuse Case No.: 2007/01

Horse: LE SAMURAI

FEI Passport No: USA06998

Person Responsible: Mrs. Amy Tryon, USA

Event: CCI 4* Rolex Lexington Kentucky, USA 26-29 April 2007

1. COMPOSITION OF PANEL

Mr. Ken E. Lalo
Mr. Erik Elstad
Mr. Patrick A. Boelens

2. SUMMARY OF THE FACTS

2.1 Memorandum of case: By Legal Department.

2.2 Summary information provided by Person Responsible (PR):

The FEI Tribunal took into consideration all documents presented in the case file, as also made available by and to the PR.

2.3 Oral hearing: On 25 June 2007 in Lausanne FEI Headquarters.

Present: The FEI Tribunal Panel

For the FEI:

Mr Alexander McLin, General Counsel

Ms Laetitia Zumbrunnen, Legal Counsel

Mr Christian Landolt, Ground Jury Member, witness

Mr Wayne Roycroft, Chairman of the FEI Eventing Committee, witness (by telephone)

Ms Catrin Norinder, FEI Eventing Director, witness

Dr Frits Sluyter, FEI Veterinary Director, witness

For the PR:

Mrs Amy Tryon, Person Responsible

Mr Andrew C. Temkin, Esquire, Legal Counsel of the PR

Mr Kevin C. Baumgardner, Esquire, Legal Counsel of the PR

Mrs Rebecca Broussard, Owner of Le Samurai, witness

Captain Mark Phillips, Amy Tryon's Coach, witness

Mrs Karen O'Connor, International Event Rider, witness (by telephone)

Observers

Ms Lies De Backer, FEI Veterinarian

Mr Greg Tryon, Husband of Amy Tryon

Ms Sarah Kelly, Daughter of Mrs Broussard

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

3.1 Articles of the Statutes/ Regulations which are applicable or have been infringed:

Statutes, 21st edition, revision effective May 2006 ("**Statutes**"), Arts. 001.6, 057 and 058 and Statutes 22nd edition, effective 15 April 2007 ("**New Statutes**"), Arts. 1.4, 34 and 37.

General Regulations, 21st edition, effective 1 June 2006, Arts. 142, 143, 153, 154 and 161 through and including 174 and General

Regulations, 22nd edition, effective 1 June 2007, Arts. 142, 143, 153, 154 and 161 through and including 174 ("**GR**").

Internal Regulations of the FEI Tribunal, effective 15 April 2007.

Rules for Eventing, 22nd edition, effective 1 January 2006 ("**ER**"), Art. 519, 520, 549.

Veterinary Regulations, 10th edition, effective 1 June 2006 ("**VR**"), Art. 1013 and Annex XVII.

FEI Code of Conduct for the Welfare of the Horse ("**Code of Conduct**").

3.2 Person Responsible: Mrs. Amy Tryon

3.3 Justification for sanction:

GR Art. 143:

"1. No person may abuse a horse during an event or at any other time. "Abuse" means an action or omission which causes or is likely to cause pain or unnecessary discomfort to a horse, including without limitation any of the following:

- 1.1. To whip or beat a horse excessively;
- 1.2. To subject a horse to any kind of electric shock device;
- 1.3. To use spurs excessively or persistently;
- 1.4. To jab the horse in the mouth with the bit or any other device;
- 1.5. To compete using an exhausted, lame or injured horse;
- 1.6. To "rap" a horse.
- 1.7. To abnormally sensitise or desensitise any part of a horse;
- 1.8. To leave a horse without adequate food, drink or exercise;
- 1.9. To use any device or equipment which cause excessive pain to the horse upon knocking down an obstacle.

2. Any person witnessing an Abuse must report it in the form of a protest (Art 167) without delay. If an Abuse is witnessed during an event, it should be reported as a protest (Art 167) to an Official. If the Abuse is witnessed at any other time it should be reported as a protest (Art 167) to the Secretary General for referral to the Judicial Committee."

Subsequent to the adoption of the New Statutes, the Judicial Committee is now referred to as the "Tribunal".

4. DECISION

PREAMBLE

4.1 The matter presently referred to the Tribunal of the Fédération Equestre Internationale ("**FEI**") deals with an alleged horse abuse committed by Mrs. Amy Tryon (the "**Competitor**") on her horse, LE SAMURAI (the "**Horse**") while participating at the cross-country phase of the 2007 Rolex Lexington Kentucky 4-Star Event (the "**Event**").

The dilemma which the Tribunal has to resolve is a very difficult one. The main issues to be decided are (a) whether the Competitor committed an "abuse" as this term is defined under the applicable rules and, if an abuse was committed, (b) whether it was an intentional (premeditated) act or an unfortunate omission to take action and stop the Horse, as signals of discomfort were not correctly perceived by the Competitor.

The Tribunal came to the conclusion that, while the actions or omissions of the Competitor are defined as an "abuse" under the language of the applicable rules, and while she should therefore be charged with a breach of these rules, there was no premeditation and no actual awareness by the Competitor that she had been riding a lame or injured Horse. This conclusion is taken into account in imposing sanctions on the Competitor.

The Tribunal is of the opinion that Mr. David O'Connor, President of the United States Equestrian Federation ("**USEF**"), Member of the FEI Eventing Committee and Chairman of the FEI Eventing Safety Committee, phrased the dilemma and the conclusion well in stating: *"Premeditated abuse is an action that should, and needs to be dealt with in the most severe actions that we as a sport can take by our judiciary side. Similar cases to this [the present case] are much harder to judge and I feel should be dealt with on a whole different level. Should this be taken seriously – yes; career changing – no."*

In support: Statement of David O'Connor

FACTS

- 4.2 The Competitor is an international Eventing rider and a member of the USEF. She has been competing in Eventing competitions for some 30 years. Since 1999, she has been representing the United States at many international events and has ridden four different horses at CCI three and four stars competitions.

In support: Statement of Amy Tryon

- 4.3 From 26 to 29 April 2007, the Competitor participated at the Event with the Horse.

- 4.4 The Horse had been entrusted to the Competitor by his owners, Rebecca and Jerome Broussard, in 2006. During the 2006 season and the beginning of the 2007 season, the Competitor entered several Eventing competitions with the Horse, where she used the competitions to train the Horse and increase his trust in the rider, his stamina and style. The Competitor refrained from finishing the cross-country phase in a number of events and later completed the cross-country round at a competitive speed on two occasions.

In support: Statement of Amy Tryon

Statement of Captain Phillips

Statement of Mark Revenaugh

Statement of Allyson Green

Hearing Transcript at p. 66

- 4.5 At the Event, the Competitor was ranked first after the dressage round and when she started out into the cross-country phase on the second day of the Event.

- 4.6 When entering the last section of the cross-country phase, after jump 33 and before the last jump in the course (34), the Horse looked increasingly tired. Conflicting evidence was submitted regarding whether the Horse was overly exhausted necessitating pulling out of the competition, or whether the Horse was merely extremely tired as may be expected at this level Event towards the end of the cross-

country phase. The Tribunal will discuss this under paragraphs 4.44 and 4.45.

In support: Statement of Christian Landolt
Statement of Tom Ryckewaert
Statement of Catrin Norinder
Statement of Andrew Griffiths
Statement of Barry Roycroft
Joint Statement of John McEwen, Andrew Higgins,
Paul Farrington and Frits Sluyter
Statement by Anne-Mette Binder
Hearing Transcript at pp. 8, 23, 26, 36, 49, 91-92,
103

- 4.7 About 250-300m from the finish and 150-175m prior to the last fence, the Horse suddenly appeared to stumble. The Horse changed lead and his strides became erratic and he fell into an uneven trot. Conflicting evidence was submitted regarding whether the Horse was injured or lame at this point necessitating pulling out of the competition, or whether the Horse was merely uneven for a few strides, regaining balance and more even strides before the last jump which he cleared. The Tribunal will discuss this under paragraphs 4.46 to and including 4.75.

In support: Statement of Christian Landolt
Statement of Tom Ryckewaert
Statement of Catrin Norinder
Statement of Andrew Griffiths
Joint Statement of John McEwen, Andrew Higgins,
Paul Farrington and Frits Sluyter
Statement of Barry Roycroft
Statement of Wayne Roycroft
Hearing Transcript at pp. 8-9, 24, 27, 38, 50

- 4.8 Following the last jump (34) the Horse was evidently lame and was stopped by the Competitor. Once stopped, the Horse was over the

finish line.

In support: Statement by Marylin Payne
Report by Barbara Galler
Report by Veterinary Delegate Catherine Kohn
Statement of Catrin Norinder
Statement of Christian Landolt
Statement of Andrew Griffiths
Hearing Transcript at pp. 8-9, 27, 92

4.9 As the Horse came to a stop, he was standing on three legs, unable to put any pressure on one of his front legs.

In support: Statement of Catrin Norinder

4.10 The Horse was transported to the Hagyard Medical Institute, a clinic located in the immediate proximity to the competition site.

In support: Report by Veterinary Delegate Catherine Kohn

4.11 As the Veterinary at the clinic reported, the Horse was diagnosed with a *"proximal displacement of the proximal sesamoid bones which was associated with an avulsion injury to the distal sesamoidean ligaments."*

In support: Statement of Dr. Robert Hunt

4.12 Given the severity of the injury and the increasing discomfort of the Horse, the decision was made for humane euthanasia, which was performed on 4 May 2007. The post mortem evaluation confirmed the extensiveness of the injury and a thrombosis of the vessels of the lower limb.

In support: Statement of Dr. Robert Hunt
Statement of the Broussard Family

Proceedings

4.13 The Ground Jury was on site and investigated the matter immediately after the Competitor's round.

4.14 Upon meeting on 28 April 2007, the Ground Jury referred the matter to the Appeal Committee which was composed of the same individuals as the Ground Jury members. On 29 April 2007, the Appeal Committee rendered a decision of immediate disqualification with referral to the Secretary General of the FEI for transmission to the FEI Tribunal (Art. 164.4.5 GR).

In support: Ground Jury and Appeal Committee Statement
Minutes of the Meeting of the Ground Jury with Amy Tryon
Report on Procedures Taken by the Technical Delegate and the Ground Jury

4.15 On 8 May 2007, Mr. Andrew Griffiths, Technical Delegate of the Event, forwarded the Event Report to the FEI.

In support: FEI TD Report on 2007 Rolex Kentucky Event and its Annexes

4.16 On 11 May 2007, the Competitor was notified by the FEI via the USEF that the matter was being referred to the FEI Tribunal and informed of the upcoming proceedings.

In support: Fax from the FEI to Amy Tryon of 11 May 2007

4.17 On 23 May 2007, the Competitor requested that an oral hearing be convened. On 31 May 2007, the Competitor submitted a written statement of defense.

In support: Letter from Amy Tryon to the FEI of 23 May 2007

4.18 The Competitor's brief dated 31 May 2007 included witness statements

from the Competitor; Mrs. Rebecca Broussard, the Horse's owner; Dr. Mark V. Hart, M.D., the owner of Poggio II (the Competitor's horse at the 2002 World Equestrian Games); Mr. John Long, the Chief Executive Officer of the USEF; Captain Mark Phillips, a renowned eventing rider and coach of the US team; Dr. Kent Allen, DVM, a treating veterinarian at the Event and member of the FEI Veterinary Committee; Dr. Stacey Kent, DVM, one of the Horse's veterinarians; Dr. Mark Revenaugh, DVM, a US equestrian team veterinarian; Dr. Brendan Furlong, M.V.B., M.R.C.V.S., a team veterinarian for the United States Equestrian Team Foundation ("**USET**"); Dr. Robert Hunt, DVM, MS, one of the veterinarians that treated the Horse after the incident; Mr. David J. O'Connor, the President of the USEF; Mr. Phillip Dutton, an international eventing rider previously representing Australia that competed at the Event for the USA; Ms. Heelan Tompkins, an international eventing rider representing NZL; Mrs. Karen O'Connor, an international eventing rider representing the US that competed at the Event; Ms. Kimberly Severson, an international eventing rider representing the US; Ms. Allyson Green, the Competitor's head groom at the Event; Battalion Chief David McDaniel, a coworker of the Competitor at her employer, Eastside Fire and Rescue; and Ms. Margo Leithead, former President of the US Pony Club. These witness statements were later supplemented by additional witness statements provided by Mr. George Morris, a renowned show jumping rider and coach and Chef d'Equipe of the US Jumping Team; Ms. Lucinda Green, a renowned international eventing rider from the UK; and Mrs. Jane Atkinson, Executive Vice President of Equestrian Events and the Event Director for the 2007 Rolex Kentucky CCI 4*.

- 4.19 The FEI filed its submissions which included a brief, various documents as well as witness statements from the following individuals: Dr. John McEwen, Chairman of the FEI Veterinary Committee, Dr. Andrew Higgins, a member of the FEI Veterinary Committee, Dr. Paul Farrington, Vice Chairman of the FEI Veterinary Committee and Dr. Frits Sluyter, Director of the FEI Veterinary Department ("joint statement"); Mr. Barry Roycroft, an international eventing rider and judge from Australia; Mr. Carl Bouckaert, riders' representative on the FEI Eventing Committee; Mr. Andrew Griffiths, Deputy Chairman of the FEI Eventing Committee; Mr. Christian Landolt, a member of the

Ground Jury at the Event; Ms. Catrin Norinder, Director of the FEI Eventing & Olympics Department; Mr. Tom Rickewaert, member of the FEI Eventing Committee; and Mr. Wayne Roycroft, Chairman of the FEI Eventing Committee.

4.20 The FEI convened the hearing for 25 June 2007. The hearing was held on 25 June 2007 in Lausanne lasting some seven hours. At the hearing, the parties made legal arguments and supplemented the written witness statements, presentations and documents by the testimonies of Mr. Christian Landolt, Dr. Frits Sluyter, Ms. Catrin Norinder and Mr. Wayne Roycroft on behalf of the FEI; and by Mrs. Rebecca Broussard, Captain Mark Phillips and Mrs. Karen O'Connor on behalf of the Competitor.

Law - Jurisdiction

4.21 The FEI Tribunal has jurisdiction over this matter pursuant to the Statutes and the New Statutes.

Person Responsible

4.22 Under Article 142 GR: "*The Person Responsible shall be the competitor who rides or drives the Horse during an Event [...]*". Therefore, the Competitor is the Person Responsible in this case.

Elements of "Abuse"

4.23 The principle of the horses' welfare is of paramount importance and inherent in the conception of the equestrian sport promoted and regulated by the FEI, as expressed by the Code of Conduct, Statutes and GR. The rider who puts his or her horse's health and life at risk must be held responsible for this conduct.

4.24 Under the heading "*Abuse of horses*", Article 143 of the GR reads as follows:

"1. No person may abuse a Horse during an Event or at any other time. "Abuse" means an action or omission which causes or is likely to cause pain or unnecessary

discomfort to a Horse, including without limitation any of the following:

[...]

1.5 To compete using an exhausted, lame or injured Horse;

[...]”.

4.25 According to the general definition contained in Article 143 GR, the following requirements must be met for a case of abuse to be realized:

- act or omission;
- which causes or is likely to cause;
- pain or discomfort to a horse.

4.26 Paragraph 1.5 of this Article 143 GR concretizes this broad definition by giving examples of the type of act or omission that ought to be qualified as abuse.

4.27 In the context of Eventing, Article 520 ER states as follows:

“Any act or series of actions that in the opinion of the Ground Jury can be defined as abuse of a horse or dangerous riding shall be penalised by disqualification and such other penalties in accordance art. 532.1 of the present Rules as the Ground Jury may determine. Such acts include, for example: rapping, riding an exhausted horse, excessive pressing of a tired horse, riding an obviously lame horse, excessive use of whip and/or spurs, dangerous riding”.

4.28 The FEI argued that to establish abuse it was not required to prove the existence of a causal link between the rider’s behaviour and any damage suffered by the horse. The Tribunal accepts that to establish abuse it is sufficient that the rider’s conduct is likely to cause such damage or to potentially bring about pain or discomfort to a horse.

4.29 The FEI also argued that to establish abuse it was not required that any specific level of fault on the side of the rider be demonstrated and

that intentional misconduct or gross negligence by the rider was not required. The FEI relied on the text of Article 143 GR that does not imply any malicious intent or premeditated misbehaviour. The FEI reminded that while the FEI rules once stated explicitly that the offence had to be "intentional", the GR have since been amended, in 2000-2001, to abandon this requirement in order to clarify this issue.

- 4.30 Even under the former version of the GR, the "intention" requirement had been interpreted very extensively by the Court of Arbitration for Sport ("**CAS**"), in the sense that the rider must, as a rule, be held liable for any mistreatment of his or her horse:

*"[...] the Panel is of the opinion that the said "intention" requirement must be read in conjunction with the above quoted art. 142, paragraph 1, of the GR concerning legal responsibility. As said, the rider is presumed responsible for any mistreatment of his/her horse, even done by someone else. Therefore, **the "intention" requirement means that a rider can escape responsibility for horse abuse only if he/she proves that any pain or discomfort for the horse occurred by mere accident or by someone else's conduct beyond the rider's control**" (CAS 99/A/246, W. vs FEI, award of 11 May 2000, Digest II, p. 505 and seq., p. 513; emphasis added).*

- 4.31 The FEI further supported its position by stating that the penalty incurred in case of a violation of the FEI rules constituted a disciplinary sanction, which was of a civil law nature and that in Swiss civil law, it was a general principle that any degree of fault (intent or negligence) was sufficient for the author to be held liable for a breach of his duty of care (e.g. Arts. 41 and 97 Swiss Code of Obligations).

- 4.32 The FEI supported its position by stating that the current GR corresponded to the FEI's primary concern to guarantee the welfare of the horse and to prevent any conduct which could endanger this welfare, no matter the nature of such conduct. This general principle was in particular enshrined in the Code of Conduct which emphasizes that the FEI expects *"all those involved in international equestrian sport to adhere to the FEI's Code of Conduct and to acknowledge and*

accept that at all times the welfare of the horse must be paramount and must never be subordinated to competitive or commercial influences". The standard of care required from all participants in the equestrian sports is a particularly strict one: "The FEI urges all those involved in equestrian sport to attain the highest possible levels of education in their areas of expertise relevant to the care and management of the competition horse" (Article 4(f) Code of Conduct).

4.33 The Competitor argued that the term "abuse" implied intent and should be reserved for individuals who consciously or carelessly act in a way that is detrimental to the interests of a horse (e.g. those who willfully violate the drug rules to try to cover up an unsoundness, or who make a conscious decision to enter and compete a lame horse, or who cause distress to a horse through a prohibited and abusive practice such as poling, or who simply do not care about the welfare of the horse). The Competitor therefore argued that honest, unintentional mistake in reacting to a wholly unanticipated event—all of which happened in the space of less than 30 seconds— could not constitute "abuse of horse" under Article 143.1.5 GR.

4.34 The Competitor stated that, while there was admittedly no express requirement of a specific level of culpability necessary for a finding of "abuse" set forth in Article 143.1.5 GR, the term "abuse" implied some willful or intentional misconduct, or at the very least a conscious act that was undertaken in reckless or grossly negligent disregard of the consequences.

4.35 The Tribunal accepts the CAS position in CAS 99/A/246, supra at 3.30, that since Article 143 GR is aimed at guaranteeing the welfare of the horse and preventing any conduct which could endanger its welfare, it is sufficient that the rider be conscious enough to act or omit to act and it is not required that the rider intend to harm the horse or cause it pain. In the present case, if it is proven that the Competitor rode an exhausted Horse or an injured or lame horse when she could have stopped him, this would entail an action or omission for the purposes of Article 143 GR regardless of the existence of an intention to harm the Horse or even reckless disregard to the Horse's condition. The intentional action is the continued riding of the Horse under such

circumstances, and the omission to timely stop him, even in the event that these are based on misconception of the exact situation and the Horse's condition.

4.36 Additionally, in the context of Eventing, substantial evidentiary weight is given to the Ground Jury's determination regarding what constitutes "abuse" (see Article 520 ER: *"Any act or series of actions that in the opinion of the Ground Jury can be defined as abuse of a horse[...]"*).

Evidentiary Matters

4.37 The incident and its dramatic consequences have been apparently largely reported and debated in the equestrian world. The FEI proffered in its submissions excerpts from internet sites as well as e-mails received by the FEI, containing messages of people wishing to express their feelings in regard to the incident and the Competitor's culpability. These also included an internet poll as to the sanctions that should be imposed on the Competitor. The Tribunal completely ignores these documents and thereby does not attribute any weight to such statements. Any statement from entities or individuals that are not provided in an acceptable method, including being available for cross-examination, cannot carry any evidentiary weight whatsoever. These, therefore, did not support the FEI's position. The Tribunal cautions that in today's world with its communications trends one ought to safeguard against any form of "trial by internet" or so-called "consensus".

4.38 With the exception of these documents, the Tribunal took into consideration all briefs, arguments, documents witness statements and testimonies included in the case file, submitted prior to the hearing and presented at the hearing. All such evidence was made available to the Competitor and her legal team in a timely manner.

The Ground Jury's Actions at the Event

4.39 Based on the testimonies of Catrin Norinder and the Competitor, it appears that on the evening of the cross-country day the Ground Jury concluded to take disciplinary action against the Competitor, before

receiving the Competitor's evidence. From the evidence of Christian Landolt it appears that the Competitor who attended to the Horse was not available until the next morning. While the GRs do not explicitly require the Ground Jury to take evidence from a competitor prior to making a decision, the Tribunal nevertheless determines that in the circumstances and since there was no need for action prior to the following morning, the Ground Jury should have kept an open mind about the incident and refrained from coming to a conclusion in the matter before obtaining all relevant evidence and should have provided the Competitor with her due process rights. Catrin Norinder agreed that an important evidence for the Ground Jury would be to actually speak to an accused rider before making a decision.

In support: Ground Jury and Appeal Committee Statement
Statement of Amy Tryon
Statement of Catrin Norinder
Hearing Transcript at pp. 9, 32-33, 75, 79

4.40 The Tribunal also highlights that had there been an Appeal Committee at the Event, which is, under Article 549.5.2 ER, only compulsory for Eventing Championships, comprised of different members than the Ground Jury members, there may have been further input at the Event, shedding an additional or a different light on this case. Christian Landolt testified that: *"[w]e therefore referred it to the Appeal Committee. As there were no [other] judges on site, the Ground Jury became the Appeal Committee; that is, we became the Appeal Committee."*

In support: Hearing Transcript at p. 9

4.41 Christian Landolt testified at the hearing that the case was referred to the Appeal Committee and then to the Tribunal due to its severity and also since the case "was very public". Christian Landolt testified that: *"[w]e felt these sanctions, [referring to a warning or a yellow card with a CHF 2'000.- fine] were not relevant whatsoever in this case, which has been very public, and whose severity was considerable. [...] First of all, there were a couple of big screens around Kentucky Park, so the public was able to watch the event on the big screen. It was also*

broadcasted live on the Internet, and many people all around the world were actually watching what was going on. Very quickly, I began receiving messages and calls from friends from abroad asking me what was going on, since they claimed it was horrendous. That demonstrates that many people were watching the event on the Internet and saw the case. Very quickly a lot of people were aware of the situation. Had it been a smaller competition without television, I think we would be in a different situation. However, at this stage, the sport was very aware of the incident, and it presented a very bad picture for us."

In support: Hearing Transcript at pp. 9, 14

4.42 The Tribunal is of the opinion that Ground Juries and Appeal Committees should decide cases based on their merits without caving in to or otherwise being influenced by public sentiment. Christian Landolt's clear testimony in this regard highlights the need for the FEI to educate its officials regarding the requirement to judge events in a similar manner at small and large, "public" and less "public" competitions and regardless of the sentiment of bystanders who may react to a situation being judged. In the present case the same result should have prevailed regardless of spectators' comments and regardless of the location of the incident (close to the finish line or in mid course).

4.43 The Tribunal concludes, however, that these do not alter the Tribunal's jurisdiction to deal with alleged abuse cases including the present case as referred to it.

Riding an Exhausted Horse

4.44 The FEI proffered certain evidence that the Competitor rode and pressured an exhausted Horse, making use of the whip on several occasions to keep him going at a certain pace. In his statement, Barry Roycroft said that: "[t]he horse appeared tired before the third last fence, and exhausted shortly after the last fence.". The Tribunal does not deem this to be sufficient to constitute abuse. Not only was this view rejected by all of the witnesses providing evidence on behalf of

the Competitor, but even witnesses providing evidence on behalf of the FEI could not support this position. This view was not supported by Christian Landolt who stated that despite the fact that "*Le Samurai [was] showing obvious signs of fatigue and reluctance to gallop on*", "*I would not say [the Horse] was exhausted*". This view was also not supported by the joint witness statement of the FEI veterinarians, by Catrin Norinder who stated that "*the Horse looked still happy*" after fence 33 and by Tom Rickewaert who stated that "*I don't think the rider 'over did it'*". Dr. Sluyter testified that "*we [the FEI Veterinarians] did not conclude that the horse was exhausted*". Anne-Mette Binder said in her statement that she observed that the Competitor after two thirds of the course or more was riding "*a slightly tired horse*". She discussed with a veterinarian in control if this would be a Horse to stop. Their "*mutual opinion was that the rider would be able to pass the finish line in the condition of her horse would stay as it was*". Karen O'Connor was also of the opinion that the Horse was clearly not exhausted. Additionally, in referring the case to the Tribunal, the Appeal Committee makes the reference for an "*alleged abuse before fence number 34*" and not for riding an exhausted Horse.

In support: Statement of Christian Landolt

Statement of Tom Ryckewaert

Statement of Catrin Norinder

Statement of Andrew Griffiths

Statement of Barry Roycroft

Joint Statement of John McEwen, Andrew Higgins, Paul Farrington and Frits Sluyter

Ground Jury and Appeal Committee Statement

Statement by Anne-Mette Binder

Hearing Transcript at pp. 8, 23, 29, 36, 38, 91-92, 103

4.45 To support the allegation that the Competitor pushed on an exhausted Horse, the FEI made certain references and provided certain statements alleging that the Horse's speed during the first parts of the course was far too fast, making it probable that it was tired during the latter parts of the course. Barry Roycroft stated that at the final water (about 9 minutes into the course), the Competitor was 50 seconds

under the time. This was contradicted by Captain Phillips, by Catrin Norinder, by video captures of the Horse and other horses presented at the hearing and by additional evidence. The Tribunal rejects this argument as unfounded.

In support: Statement of Barry Roycroft

Hearing Transcript at pp. 8, 29, 36, 38, 91-92, 103

Riding a Lamé or Injured Horse

4.46 The FEI argued that by riding and by omitting to stop a lame and injured Horse, by jumping him over a fence and by pushing him to the finish line, the Competitor acted contrary to her Horse's interests, and that her actions or omissions constitute "abuse" under Article 143 GR.

4.47 Catrin Norinder described the situation as follows: *"The horse's pace was uncoordinated, nodding, trying to relieve the pressure on the injured leg as he progressed towards the last fence"*.

In support: Statement of Catrin Norinder

Hearing Transcript at p. 27

4.48 Christian Landolt took the following view: *"It seems inconceivable for a professional rider such as Amy Tryon not to be aware that her horse was in serious trouble as he was galloping in such an uncoordinated manner"*.

In support: Statement of Christian Landolt

Hearing Transcript at p. 8

4.49 Tom Rickewaert also stated: *"To me it is clear that the rider was aware from the first couple of strides after the 'stumble' that the horse was badly injured"*.

In support: Statement of Tom Rickewaert

4.50 Wayne Roycroft emphasized that: *"No consummate horseperson like Amy Tryon could seriously pretend not to have recognized that the*

horse had broken down, especially considering the fact that he had been demonstrating signs of exhaustion all the way from the nine minute mark".

In support: Statement of Wayne Roycroft

4.51 Barry Roycroft stated that: *"She had approximately half a minute to stop, and instead made a conscious decision to press the horse home. I would qualify Amy's actions as totally irresponsible, negligence at its worst degree."*

In support: Statement of Barry Roycroft

4.52 Andrew Griffiths considered that: *"Le Samurai's sudden change of pace at that moment could not be interpreted by a rider of Amy Tryon's experience as being due to a mere loss of a shoe. [...] Amy Tryon could not be unaware that Le Samurai was lame"*.

In support: Statement of Andrew Griffiths

4.53 The Competitor accepted that in retrospect, and after viewing the incident on video, she had made a mistake in not stopping the Horse. The Competitor agreed that she reacted mistakenly to the Horse's sudden injury at the Event. She stated that she misperceived what had happened when the Horse was injured and then reacted in keeping with that misperception. Based on her past experiences combined with what she felt at the moment of the Horse's injury, the Competitor mistakenly thought that the Horse was losing a shoe, or that a boot had slipped, and believed that his stride would return to normal once the shoe or boot had come all the way off.

In support: Statement of Amy Tryon

Hearing Transcript at pp. 74, 77-78

4.54 The Competitor did not contest the basic facts as demonstrated by the video evidence and that she incorrectly perceived, albeit

unintentionally, what had happened at the moment of the Horse's injury, and that, as a consequence of her misperception, she continued on course before pulling up.

In support: Statement of Amy Tryon

Hearing Transcript at pp. 77-78

4.55 The Competitor argued that there was plainly no intentional or willful misconduct or even a reckless action. The Competitor further argued that there was also no motive whatsoever for her to continue on for even one stride farther if she had realized that the Horse had been injured since there was still another day left in the Event, and it would not have benefited the Competitor to complete cross-country on an injured horse, no matter what her placing was at the time. The Competitor assured that her mistake arose from an honest, momentary misperception of an emergent situation that happened in real time at the 12th minute of a cross-country round at a difficult three-day event, while exhausted with adrenaline running through her veins.

In support: Statement of Amy Tryon

Hearing Transcript at pp. 77-78

4.56 The Competitor stated that in addition to being unintentional, her mistaken reaction to the Horse's injury was not the result of carelessness or recklessness, nor did it stem from a negligent attitude towards the welfare of her Horse. The Competitor stayed quiet and tried to balance the Horse *"in an effort to let his stride sort itself out"*. She added that *"[f]or a split second [...] I contemplated turning a circle in front of the fence so as to further evaluate [Le Samurai], but I decided not to do so when I realized that there was not sufficient space [...] to safely execute such a turn."*

In support: Statement of Amy Tryon

Hearing Transcript at pp. 75, 77-78, 80

4.57 The Competitor argued that there can be a significant difference between what a rider feels on a horse in real time and what may

afterwards be determined from analysis of a videotape. This was supported by Phillip Dutton, David O'Connor, Captain Mark Phillips, Karen O'Connor and Lucinda Green.

In support: Statement of Phillip Dutton
Statement of David O'Connor
Statement of Captain Mark Phillips
Statement of Karen O'Connor
Statement of Lucinda Green
Hearing Transcript at pp. 86-87, 101-102

4.58 The Competitor has never had a horse incur an injury of this nature before, and has never been involved in horse racing where such incidents are apparently more common; thus, she was completely unfamiliar with the sensation of having the Horse encounter this type of injury underneath her.

4.59 Kent Allen said in his statement: *"In my experience, the injury of the nature that Le Samurai suffered at the Lexington Three-Day Event is very rare in the sport of Eventing. Accordingly, event riders are simply not experienced with the situation when a horse breaks down in this manner, which is much more common in the sport of horse racing. In contrast, when an event horse takes a bad step while competing, it usually results from the horse stepping on a shoe or striking itself. In these situations, the horse usually resolves the problem in a short distance (e.g., the shoe comes completely off) while continuing the cross country phase. I believe that Amy misjudged the situation but that she did not proceed with any cruel or malicious intent."*

In support: Statement of Kent Allen

4.60 Stacey Kent stated that *"[t]he injury that 'Le Samurai' sustained is extremely rare in the sport of 3 Day Eventing."*

In support: Statement of Stacey Kent

4.61 This was also supported by other witnesses with broad experience of

Eventing.

In support: Statement of Captain Mark Phillips
Statement of David O'Connor
Statement of Karen O'Connor
Statement of Phillip Dutton
Hearing Transcript at pp. 86, 101-102

4.62 Describing the incident, the Competitor testified that: *"To be honest, it took me probably 10-15 seconds to realise what had happened, that [the Horse] had stumbled. I kept thinking that it was merely a problem with a shoe, or that his boot had slipped down. He has a boot with a hard plastic shield on the back of the tendon, and I thought maybe the boot has slipped. For a brief moment, I was around at the turn, on the right side of the ropes, and I thought to myself maybe I should circle. I went to look out the circle, and the way the roping was strung there was no way I could turn a circle going at that speed. I did not ever feel that I was kicking him to keep him going. As I turned towards the last fence, I felt his ears come up, and to me his strides started to level out. I thought that the shoe or boot has come off, or whatever has occurred when he landed. I felt that he landed okay, but then two strides after landing his gait returned back to abnormal, and I sensed something was wrong. I have started trying to pull him up at that point."*

In support: Hearing Transcript at pp. 74-75

4.63 The Competitor testified that she did not realize where the finish line had been stating that: *"I had no idea where I was. It was not a conscious thought of where I was versus where the finish was. I was more concerned of pulling up in a straight line. It definitely took me quite a few strides to pull him up, but I was trying to pull him up in a straight line, quietly, without causing any harm."*

In support: Statement of Amy Tryon
Hearing Transcript at p. 75

4.64 The Competitor nevertheless felt that in hindsight and looking at the video after the fact, she had made a mistake. The Competitor testified that: *"I believe that I have reacted based on the information that I have had at the time. Being in hindsight, being able to watch the video, clearly I did not act soon enough or appropriately. [...] I think the hardest thing for me to understand as a rider when I watch the video, is how on earth I could misunderstand what was happening underneath me. But at the time, I think it took me five of six strides to react to the fact that [the Horse] actually stumbled. Then, his stride felt uncoordinated for a few steps, and I did not really know what to do. I briefly thought of turning a circle, but I felt there was no room, because of the way the roping was. Trying to make that judgment call, in those seconds that are going on, as he followed the roping, I felt that at no point was I kicking him to keep him going. When he saw the fence his head came up to me, and his stride got a very normal feeling. Then, when he landed, I thought he was fine. When he landed from the last fence, I closed my leg on him. Then, in the next stride it felt to me that it was getting worse, I have said to myself that there is something wrong, and I need to pull him up. Again, it was like I was not aware of where the finish line was in relation to where I was. I was not exactly looking up at that point. I was attempting to look down to see if anything was wrong."*

In support: Statement of Amy Tryon
Hearing Transcript at p. 77

4.65 Captain Phillips described how he once felt a change of stride while competing at a CCI 4* level, but continued on course in the belief that it would sort itself out; eventually, he pulled up and discovered that the horse's tendon had slipped off the hock. Karen O'Connor recounted a similar situation in which she jumped 6 or 7 cross-country obstacles before realizing that she needed to pull up because of an injury to her horse. The experiences of Captain Phillips and Mrs. O'Connor again demonstrate that there can be a significant disconnect between what even an international top-level rider feels and what is actually occurring.

In support: Statement of Captain Mark Phillips

4.66 Captain Phillips testified that: *"I think the major difference is that the rider has no video. The rider can hear and feel what they have between their legs and in their hands. However, there is no video, and particularly there is no video of the horse's leg. Thus, all you have got is really the feel of what is underneath you. [...] We have all been out there in situations where the horses have taken a bad step, and then got better. Amy's bad luck, in my opinion, was that it happened in sight of the finish. If it had happened 400 meters beforehand, and the horse has not gotten better, I have absolutely no doubt in my mind that she would have pulled up. However, she was in that point in time, where she was still trying to work out what was going on, when the last fence and the finish came up. I think she would have pulled up over the same period of length of time, whether it has been 150 meters from the finish or 2000 meters. When she realised it was not going to get better, she would have pulled up."*

In support: Hearing Transcript at pp. 86-87

4.67 The Competitor argued that the term "abuse" should not be applied in a purely mechanistic way, and instead should be reserved for individuals who knowingly ride lame or injured horses, or who intentionally medicate their horses in violation of FEI regulations, or who otherwise simply disregard the welfare of the horse or commit a conscious, reckless, or grossly negligent act in a manner that is contrary to the best interests of the horse.

4.68 The Competitor's counsel argued that in the present case not only was the Competitor's act not premeditated, but *"it was also an act that came out of the blue. [...] That is a very different situation from the specific types of examples of abuse of horse that anyone would agree that whether you do them intentionally, negligently, or recklessly, are going to cause pain and suffering to a horse."*

In support: Hearing Transcript at p. 109

4.69 The Tribunal concludes that for the purposes of Article 143 GR the FEI does not have to demonstrate the existence of an intention to harm the Horse or even reckless disregard to the Horse's condition. The mere fact, as recognized and accepted by the Competitor, that she rode the Horse for some twenty strides after he stumbled and the fact, even if not evident to the Competitor at the time, that the Horse was injured and that the Competitor omitted to timely stop the Horse, even if these are based on misconception of the exact situation and the Horse's condition, are sufficient to constitute "abuse".

4.70 From the FEI Veterinarians, it is also clear that the Competitor's conduct was likely to cause pain or discomfort to the Horse. *"Le Samurai appears to be in considerable pain in the approach to and after the last jump."*

In support: Joint Statement of John McEwen, Andrew Higgins, Paul Farrington and Frits Sluyter

4.71 The Competitor was the only person who was capable of stopping the Horse after the incident, and she did so only later after jumping the last jump. The FEI Veterinarians in their joint statement have qualified her actions as "reckless at best". Continuing to ride the Horse was a matter in the Competitor's control. While it is accepted from the evidence that the Competitor did not intend to harm the Horse in any way, it is nevertheless clear that the decision to jump the last fence was a conscious one, be it based on misconception of the then current circumstances as perceived by her.

In support: Joint Statement of John McEwen, Andrew Higgins, Paul Farrington and Frits Sluyter

4.72 The Tribunal is of the opinion that the Competitor's action or omission and having jumped the last jump on an injured Horse was risking both the Horse's and the Competitor's own life in that the Horse could have failed to clear the last jump and could have therefore endangered the Competitor's life. It is supported by several testimonies, as by Christian Landolt who testified that: *"For me, jumping the last fence was dangerous riding, since the horse was not capable of cantering*

anymore. We were lucky that he was hugely talented and able to pick up and jump the fence, cantering the way he was. Many other horses would have probably not been able to achieve that, but would have crashed into the fence, putting Amy's safety at stake."

In support: Hearing Transcript at pp. 9, 27

4.73 It is clear from the evidence in the file, and from the testimony presented at the hearing that the Competitor's behavior objectively constitutes abuse according to the objective requirements that must be applied. The Competitor acted, by continuing to ride after the Horse was objectively lame and injured. Conversely, the Competitor omitted to act, by failing to pull up when she could have. It is clear that the Horse was in pain after he became lame. It should further be noted that the Ground Jury viewed the Competitor's actions or omissions at the Event as constituting "abuse" (*"Andy spoke regarding Abuse of Horse riding a lame horse. Anne-Mette spoke after reviewing video and sector stewards reports decision to find Abuse of the Horse"*).

In support: Minutes of the Meeting of the Ground Jury with
Amy Tryon

4.74 The Tribunal finds the Competitor technically in violation of Article 143 GR.

4.75 The Tribunal does believe, however, that in this case there was a significant disconnect between what the Competitor felt and what was actually occurring. Therefore, while the Competitor was negligent in that she objectively rode a lame Horse that had to be stopped, the Tribunal accepts that at the time the Competitor was not fully aware of the situation. While only a fault, whether intentional or negligent, is sufficient to satisfy the elements of "abuse", the degree of fault is material as an aggravating or mitigating circumstance in the determination of the sanction.

SANCTIONS

- 4.76 Article 174.1 GR lists several factors which shall be taken into consideration, together with any other relevant factors, when deciding on the appropriate penalties to be imposed.
- 4.77 Subsection 24.1 of the Internal Regulations of the Tribunal states that in *"determining the appropriate penalty under the rules, a Panel shall be entitled to take account of mitigating and of aggravating circumstances."*
- 4.78 The abuse of horses constitutes an offence that violates the most fundamental rules of the equestrian sport and is, as such, highly reprehensible from a moral point of view. Had the Tribunal determined that the Competitor intended to ride a lame or injured horse, a suspension for life would not have been an inappropriate or a too severe penalty.
- 4.79 The Tribunal considers the Competitor's considerable experience as a rider, and the heightened standard of care to which she should be held as a result. The Code of Conduct states not only that the horse welfare should never be subordinated to competitive influences, but also urges *"all those involved in equestrian sport to attain the highest possible levels of education in their areas of expertise relevant to the care and management of the competition horse"*.
- 4.80 The Tribunal considers, on the other hand, that the Competitor has a clean record of horsemanship and that she possesses overall personal integrity. The letter submitted by John Long, demonstrates that the Competitor has never been subject to disciplinary action of any kind before. The FEI recognized the Competitor's unblemished record.

In support: Statement of John Long

- 4.81 The Competitor has expressed her sincere regret for her actions, has taken full responsibility for them, and has apologized including before the Tribunal.

4.82 The Competitor has testified before the Tribunal that she did not understand that the Horse had been injured until just as she pulled him up. The Tribunal believes that in the state the Competitor was in – tired, focused on completing the course and without the benefit of video and ability to observe matters or analyze them logically – she did not realize that the injury had occurred, and thus never intended to continue on course with a lame or injured horse. The Tribunal believes that the Competitor clearly realized that the Horse took quite a number of uneven strides, but could not determine their cause or likely severity. The Tribunal believes that the Competitor should have nevertheless stopped earlier to understand the severity of the lameness.

In support: Statement of Amy Tryon
Hearing Transcript at pp. 75 and 77

4.83 The Competitor had no motive to continue had she realized that the Horse was injured, as no benefit or performance advantage could have been gained. Finishing cross-country on an injured horse would be of no benefit or advantage to a rider, since the final horse inspection by the Ground Jury and the show jumping phase remained for the next day.

4.84 The incident did not involve premeditation, as it arose in the context of an unanticipated catastrophic injury in the course of what had been a good cross-country round.

4.85 In all likelihood, the initial catastrophic injury caused by the Horse's first bad step—a step that was in no way the Competitor's fault— was, in the end, fatal. There was no conclusive evidence that the ultimate sad outcome was changed by the Competitor continuing on course.

In support: Joint Statement of John McEwen, Andrew Higgins,
Paul Farrington and Frits Sluyter
Statement of Dr Robert Hunt

4.86 The Competitor's punishment should not be enhanced because of public reactions to this incident. The Tribunal judges the Competitor on

the basis of what she perceived and what she should have perceived as an experienced rider and not based on the emotional reactions of others.

4.87 The Tribunal received ample testimony and witness statements regarding the Competitor's exemplary history of devotion to horse welfare, her attention to horse care and welfare and her devotion to the principle that the welfare of the horse has been and is paramount, throughout her career.

4.88 The Competitor did not intend to cause harm to the Horse. The Panel believes that she is a good horseperson who made an honest error in judgment that she will regret for the rest of her life. Under these circumstances, the Competitor's punishment should be proportional to her comparatively low level of culpability.

4.89 It is noted that the costs associated in connection with this case and the hearing that took place are most likely to have been substantial to each of the parties. In assessing costs, the Tribunal took into account also the costs which the Competitor's team had to bear and the professional manner of organizing her legal defence, and has thus assessed limited costs on the Competitor.

CLOSING REMARKS

4.90 Rebecca Broussard suggested to the Tribunal that *"It was simply an accident [...] I would like to ask that you look at this in the light of what it really is. It was an accident. Amy has certainly been punished enough"*.

In support: Statement of Mrs Broussard

4.91 The Tribunal reverts to the statement of David O'Connor, who felt that *"Should this be taken seriously – yes; career changing – no."*

In support: Statement of David O'Connor

5.1 Disqualification

As a result of the foregoing, the Tribunal has confirmed the disqualification of the Horse LE SAMURAI and the Competitor from the Event.

5.2 Sanctions

As a consequence of the foregoing, the Tribunal decides to impose the following sanctions, in accordance with Article 174 GR:

5.2.1 The Competitor shall be suspended for a period of **two (2) months** to commence immediately and without further notice at the expiration of the period in which an appeal may be filed (30 days from the date of notification of the written decision) or earlier if the appeal is waived in writing by or on behalf of the PR.

5.2.2 The Competitor is fined **CHF 1,000.-**.

5.2.3 The Competitor shall contribute **CHF 1,500.-** towards the legal costs of the judicial procedure.

6. DECISION TO BE FORWARDED TO:

6.1 **The person sanctioned:** Yes

6.2 **The President of the NF of the person sanctioned:** Yes

5.3 **The President of the Organising Committee of the event through his NF:** Yes

5.4 **Any other:** Counsels of the PR

7. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:

Date : 20 July 2007

Signature: 