



FINAL DECISION of the FEI TRIBUNAL

dated 9 July 2010

Abuse Case No.: 2010/01

Horse: CRELIDO

FEI Passport No: GER23048

Person Responsible: Michael Morrissey

Event: CSI2* - Wellington FL (USA)

Event Date: 24-28 February 2010

1. COMPOSITION OF PANEL

Mr Ken E. Lalo

2. SUMMARY OF THE FACTS

2.1 Memorandum of case: By Legal Department.

2.2 Summary information provided by the Person Responsible: The FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file, as also made available by and to the PR.

2.3 Oral hearing: None; by correspondence.

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

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

Statutes 22nd edition, effective 15 April 2007, updated 19 November 2009 ("**Statutes**"), Arts. 1.4, 34 and 37.

General Regulations, 23rd edition, 1 January 2009, updated 1 January 2010, Arts. 118, 142.1, 159 and 163.8 ("**GRs**").

Rules for Jumping Events, 23rd edition, effective 1 January 2009, Art 257.2.2.1 ("**JRs**").

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

FEI Code of Conduct for the Welfare of the Horse.

3.2 Person Responsible: Michael Morrissey

3.3 Justification for sanction:

GRs Art. 142.1

"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:

- To whip or beat a Horse excessively
- [.....]."

JRs Art. 257.2.2.1

"Excessive use of the whip

[.....]

- A horse should never be hit more than three times for any one incident.
- An Athlete identified as misusing or excessively using the whip will be disqualified and may be fined at the discretion of the Ground Jury (see Art. 241.2.9 and 242.1.14)."

4. DECISION

4.1 Factual Background

1. CRELIDO (the "**Horse**") participated at the CSI2* in Wellington, Florida, USA, on 27 February 2010 (the "**Event**") in the discipline of Jumping. The Horse was ridden by Michael Morrissey (the "**PR**").
2. On 27 February 2010, during the Grand Prix, Class Number 101 of the WEG Selection Trial 2 at the Event, the Horse, ridden by the PR, refused the water jump. The PR then made a second attempt and, in the final strides before reaching the water jump, used his whip to hit the Horse approximately thirteen (13) times.

3. David Distler, Manager of the Selection Trials and FEI Honorary Steward for show jumping, spoke to the PR about his actions. He explained to the PR that his behaviour was unacceptable and would not be tolerated. The PR apologized to Mr. Distler.
4. The Ground Jury did not take any action based on the PR's conduct.
5. Each member of the Ground Jury has been formally reprimanded by the FEI for failing to take action, in particular failing to disqualify the PR based on his conduct.

4.2 The Proceedings

6. The FEI filed a Protest against the PR on 12 April 2010. The PR responded, through his counsel, on 10 May 2010 raising various mitigating factors, including that the Horse showed no signs of distress or injury when leaving the arena. The PR's counsel similarly raised the PR's good character and reputation as a horseman along with, significantly, the fact that the Ground Jury's failure to take the necessary steps to disqualify him resulted in him having to defend his actions in two different forums (before his National Federation and in front of the FEI).
7. The Parties agreed to submit the relevant documents and evidence to a one-member Tribunal without a hearing.

4.3 Jurisdiction

8. The Tribunal has jurisdiction over this matter pursuant to the Statutes and GRs, including under GRs Article 163.8.

4.4 The Person Responsible

9. The PR is the Person Responsible for the Horse, in accordance with GRs Article 118, as he was the rider of the Horse at the Event.

4.5 The Decision

10. The Tribunal finds that the PR did violate FEI rules by "excessively whipping" his Horse and that he should have been immediately disqualified by the Ground Jury. The fact that he was not immediately disqualified places the Tribunal in a very difficult position of having to cure the Ground Jury's error a considerable time following the Event. The Tribunal also notes that it would be unfair to treat the PR more harshly as a direct result of the Ground Jury's failure to act, but nonetheless the PR must bear the consequences of his poor conduct.

11. The Tribunal notes that under GR Art. 142.1 "abuse" means not only an action or omission which causes pain but also one "which is likely to cause pain or unnecessary discomfort to a horse" and that excessive whipping is specifically mentioned in this article.
12. Accordingly, the Tribunal believes that it should order sanctions that are consistent with actions it considers the Ground Jury should have taken at the time of the rule violation in accordance with GRs Article 159 and JRs Article 257.2.2.1, and additional sanctions which the Tribunal is permitted to take in incidents in which the rider's actions constitute an "abuse".

4.6 Sanctions

13. The FEI Tribunal has decided to impose the following sanctions on the PR:
 - 1) The PR and the Horse combination are disqualified from the competition, i.e. the Grand Prix, Class Number 101 of the WEG Selection Trial 2 having taken place on 27 February 2010
 - 2) The PR shall receive a retroactive Yellow Warning Card, which shall have the same meaning and effect as if it had been given at the time of the rule violation (such Yellow Card shall be separately issued by the FEI Legal Department directly to the PR);
 - 3) The PR is fined CHF 2,000; and
 - 4) The PR shall be suspended for a period of three **(3) months** to be effective immediately and without further notice from the date of the notification. The period of Suspension, imposed under the Plea Agreement between the USEF and the PR of 6 May 2010, effective since 6 May 2010, shall be credited against the Period of Ineligibility imposed under this decision. Therefore, the PR shall be ineligible to participate in FEI activities through 4 August 2010.

5. DECISION TO BE FORWARDED TO:

5.1 The person sanctioned: Yes

5.2 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: No

FOR THE PANEL



Mr. Ken E. Lalo