

TERMS OF THE DECISION RENDERED BY THE FEI TRIBUNAL

FEI Tribunal: 2020/HA02 - C20-0060

Person Responsible/ID/NF: Andrew Kocher /10064248 /USA

22 April 2021

COMPOSITION OF THE FEI TRIBUNAL PANEL:

Mr Cesar Torrente, chair (COL)

Mr Christopher Hodson (NZL)

Mr Martin Gibbs (GBR)

Concerning the case mentioned above and the hearings held on 14, 15, 16 April 2021
between

FÉDÉRATION EQUESTRE INTERNATIONALE ("FEI" or "the Claimant")

vs.

Mr Andrew Kocher ("the Respondent")

together "the Parties"

THE DECISION

1. The FEI Tribunal finds that the Respondent's actions based on the evidence provided throughout these proceedings demonstrate to the comfortable satisfaction of the Hearing Panel the prolonged use of the Electric Spurs by the Respondent and additionally, that the Respondent's use was deliberate, methodical, repetitive and on numerous horses, both in competition and training.
2. In this regard the FEI Tribunal is comfortably satisfied that the FEI has established that the Respondent, has breached the following Articles 142 Abuse of Horses, 164.12(a), 164.12(b), 164.12(c), 164.12(g), 164.12(i), and 164.12(j) of the FEI General Regulations.
3. Summary of Legal Authority:

GRs Article 142 (Abuse of Horses)

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, but not limited to:
 - (i) To whip or beat a Horse excessively;
 - (ii) To subject a Horse to any kind of electric shock device;
 - (iii) To use spurs excessively or persistently;
 - (iv) To jab the Horse in the mouth with the bit or any other device;
 - (v) To compete using an exhausted, lame or injured Horse;
 - (vi) To "rap" a Horse.
 - (vii) To abnormally sensitise or desensitise any part of a Horse;
 - (viii) To leave a Horse without adequate food, drink or exercise;
 - (ix) To use any device or equipment which causes excessive pain to the Horse upon knocking down an obstacle.

Article 164.12 (Offences)

In addition to breaches of specific provisions of the FEI Rules and Regulations, the following is a list of other offences that the FEI may sanction:

- (a) Incorrect Behaviour;
- (b) Abuse of Horse;
- (c) Acts defined as criminal by the national law and/or Swiss law ("Criminal Acts");

- (d) Fraud of any kind;
- (e) Violence;
- (f) Failure to cooperate with an investigation undertaken by, or on behalf of, the FEI;
- (g) Conduct that brings the FEI and/or equestrian sport into disrepute, i.e. conduct that causes the public opinion of the FEI and/or equestrian sport to be diminished.
- (h) Breach of the FEI Code of Ethics;
- (i) Breach of the FEI Code of Conduct on the Welfare of the Horse;
- (j) Breach of the FEI Code on the Manipulation of Competitions;
- (k) Breach of the FEI Officials Code of Conduct;
- (l) Breach of the FEI Safeguarding Policy against Harassment and Abuse.

Article 164.7 (Suspension)

(d) As a general principle, a Suspension will start as of the date of notification of the Suspension. However, the body imposing or applying the Suspension may postpone the start date of the Suspension in order to ensure the effectiveness of the Suspension.”

Article 162.1 (Appeals, General Principles)

An Appeal may be lodged by any person or body with a legitimate interest against any Decision made by any person or body authorised under the Statutes, GRs or Sport Rules, provided it is admissible (see Article 162.2 below): (a) With the FEI Tribunal against Decisions of the Ground Jury or any other person or body. (b) With the CAS against Decisions by the FEI Tribunal. The person or body lodging such Appeal shall inform the FEI Legal Department.

Article 162.7 (Process for Filing an Appeal to CAS)

Appeals to the CAS together with supporting documents must be dispatched to the CAS Secretariat pursuant to the Procedural Rules of the CAS Code of Sports-related Arbitration so as to reach the CAS within twenty-one (21) days of the date on which the notification of the FEI Tribunal Decision was sent to the National Federation of the Person Responsible.

Article 165.1 (Time of Implementation of Decisions)

Decisions are effective from the date of oral or written notification to the affected party or parties, so long as such notification is possible under the circumstances. Otherwise, Decisions are effective as of the date specified by the body or person authorised to make the Decision.

4. Sanctions:

As a consequence of such breaches, the FEI Tribunal imposes the following

sanctions on the Respondent:

- (i) a ten-year suspension starting from the date of notification of this Decision. The provisional suspension served by the Respondent since 28 October 2020 shall be credited against this period of suspension which will therefore come to an end on 27 October 2030. Pursuant to Article 164.7 of the FEI General Regulations, as from notification of this Decision the Respondent is barred for the period of his suspension from participating in or attending, in any capacity, including as a spectator, any Competition or Event that is authorised or organised by the FEI or any National Federation.
 - (ii) disqualification of the results the Respondent obtained in the eight Events listed below for which the FEI Tribunal has been provided with photographic evidence establishing the Respondents use of the Electric Spurs. Consequently, the Respondent will forfeit all medals, points and prize money won pursuant to Article 164.6 (a) and (b):
 - CSI4* - Hickstead (GBR) (21/06/2018 - 24/06/2018)
 - CSI3* - Lexington, Horse Park KY (USA) (14/05/2019 - 18/05/2019)
 - CSI2* - Lexington, KY (USA) (22/05/2019 - 26/05/2019)
 - CSI5* - Calgary, Spruce Meadows AB (CAN) (05/06/2019 - 09/06/2019)
 - CSI5* - Calgary, Spruce Meadows AB (CAN) (27/06/2019 - 30/06/2019)
 - CSI3* - Traverse City, MI (USA) (07/08/2019 - 11/08/2019)
 - CSI4*-W - Toronto ON (CAN) (05/11/2019 - 09/11/2019)
 - CSI3*-W - Columbus -Johnstown, OH (USA) (02/10/2019 - 06/10/2019).
 - (iii) a fine of ten thousand Swiss Francs (**CHF 10,000 CHF**);
 - (iv) the Respondent is ordered to pay an amount of seven thousand five hundred Swiss Francs (**7,500 CHF**) towards the cost of these proceedings.
5. According to Articles 164.7 (d) and 165 of the FEI General Regulations, this Decision is effective from the date of its oral or written notification to the Respondent.
 6. According to Articles 162.1 and 162.7 of the FEI General Regulations, this Decision may be appealed to the Court of Arbitration for Sport (CAS) by the persons and within the terms set forth in the applicable rules.

7. DECISION TO BE FORWARDED TO:

- a. The Parties: Yes
- b. The NF of the Respondent: Yes
- c. Any other: No

FOR THE FEI TRIBUNAL (Three-member Panel)

A handwritten signature in blue ink, appearing to read 'Torrente', is written over a light blue rectangular stamp. The signature is stylized and cursive.

Mr Cesar Torrente (COL) FEI Tribunal Panel Chair

Notes relating to the terms of the decision:

1. This Decision has been made unanimously by all members of the FEI Tribunal Panel.
2. Pursuant to Article 38.3 of the Internal Regulations of the FEI Tribunal, the Hearing Panel has decided to communicate the operative part of the Decision to the parties, prior to the reasons. The Decision shall be enforceable from such notification of the operative part by courier, facsimile and/or electronic mail.
3. In accordance with Article 39.2 of the Internal Regulations of the FEI Tribunal the time to Appeal shall not begin to run until receipt of the written, reasoned Decision.