



DECISION of the FEI TRIBUNAL

Alleged Horse Abuse of the horse LCE CORLEONE

dated 7 March 2019

In the matter of

Ms. Pippa CUCKSON

"Ms. Cuckson" or "the Claimant"

vs.

Ali Mohd Ali Al Hosani

"Mr. Al Hosani" or "the Respondent"

I. COMPOSITION OF PANEL

Ms. Harveen Thauli, chair
Ms. Constance Popineau, member
Mr. Cesar Torrente, member

II. SUMMARY OF THE FACTS

- 1. Memorandum of case:** By Legal Department.
- 2. Case File:** The FEI Tribunal duly took into consideration the Parties' written submissions received to date.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Relevant Rules and Regulations:

Statutes 24th edition, effective 20 November 2018 ("**Statutes**").

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2019 ("**GRs**").

Internal Regulations of the FEI Tribunal, 3rd edition, effective 2 March 2018 ("**IRs**").

Endurance Rules, Updated 9th Edition, effective January 2018 ("**ERs**").

FEI Code of Conduct for the Welfare of the Horse

2. The relevant Legal Provisions

ERs Article 810.2: "Whips (or the use of any other item as a whip) and Spurs are prohibited."

FEI Code of Conduct for the Welfare of the Horse – 2 f) Misuse of aids: "Abuse of a Horse using natural riding aids or artificial aids (e.g. whips, spurs, etc.) will not be tolerated."

GRs Article 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, 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"

GRs Article 163.2: "(...) Protests for abuse of Horses may be lodged by any person or body."

GRs Article 169.6.2: "Abuse of Horses in any form (rapping, abnormal sensitisation or desensitisation of limbs, banned schooling methods etc.) may entail a fine of up to 15,000.- and/or a Suspension of a minimum of three (3) months up to life;"

IV. DECISION

The below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence. Although the Tribunal has considered all the facts, allegations, legal arguments and evidence in the present proceedings, it refers only to the submissions and evidence it considers necessary to explain its reasoning in this decision.

1. Factual Background

- 1.1 The rider, Mr. Ali Mohd Ali Al Hosani participated with the horse LCE CORLEONE ("**the Horse**") at the Sheikh Mohammed Cup CEI 160 km in Dubai, on 4 January 2019 ("**the Event**"). Mr. Al Hosani is an FEI registered rider (FEI ID 10082592), and his administering National Federation is the Emirates Equestrian Federation ("**UAE-NF**").

2. Procedural Background

- 2.1 On 6 January 2019, the Protestor lodged a Protest for horse abuse ("**the Protest**"), in accordance with Articles 142.1 and 163.2 of the GRs, with the FEI Secretary General, for referral to the FEI Tribunal. The Protest further contained alleged violations of Article 810.2 of the ERs and the FEI Code of Conduct for the Welfare of the Horse (2 f) Misuse of Aids.
- 2.2 On 14 January 2019, the FEI notified Mr. Al Hosani that the FEI received a Protest of alleged Horse abuse, filed by Ms. Cuckson, and requested Mr. Al Hosani to provide a written reply.
- 2.3 On 30 January 2019, Mr. Al Hosani provided his response to the allegations.
- 2.4 On 11 February 2019, the FEI submitted the Case File to the Tribunal for adjudication.
- 2.5 On 14 February 2019, the Tribunal Chair nominated a panel for this case. On 19 February 2019, the Tribunal informed the Parties that since no party requested an oral hearing, the Tribunal would decide the case based on the written submissions.

3. Protest

- 3.1 In her Protest, which was also outlined in the letter from the FEI to Mr. Al Hosani on 14 January 2019, Ms. Cuckson alleges that during the 4th loop at 14:37 local time:

"..... one groom has just handed a slosch bottle to the rider. He can be seen pouring it over the horse's neck with his right hand, then passing the empty bottle into his left hand while he takes a second bottle from a second groom. He passes the second bottle with his right hand behind the saddle, presumably to slosch the horse's loins, while simultaneously giving the horses a big kick. He then swings his right arm forward and strikes the horse in an angry manner on the neck twice. This is done forcefully and from height, in an action quite different from pouring a slosch bottle. With the speed of the manoeuvre he cannot have known whether there was any water left in the bottle and thus claim he was still slosching the horse. Some residue whooshes out of the bottle while he strikes the horse, though not in the direction of the horse's neck."

- 3.2 Ms. Cuckson provided video evidence with her Protest.

- 3.3 She also provided the following background information:

"The incident at issue occurred during the fourth loop. The horse completed the first three loops at high average speeds – 24.24, 25.72, 24.15kph. His average speed dropped to 18.12kph in loop 4, during which loop this incident took place, and again in loop 5 where his loop speed averaged just 14.11 kph. Looking at his vet card and recovery times, you have to wonder how he was deemed fit to continue after loop 4, notwithstanding the parameters met.

The video was captured at 14.37 hours, local time. It is likely that around now the rider realised his horse was tiring and he had fading hopes of a top 10 placing."

4. Response

- 4.1 In essence, the Mr. Al Hosani submitted that he did not intend at all to hit or abuse the horse and stated:

"I would like to explain what happened exactly and as it shown in the recorded video, it is clear that when I took the second water bottle from the groom I started spraying water of the horse neck, I did this twice

because I felt that there still water in the bottle so I poured it again, It is true that I poured the water vigorously due to speed and I tried to pour as much water as possible, but I did not intend at all to hit or abuse the horse”.

- 4.2 Mr. Al Hosani hoped *“this will be only a matter of misunderstanding”* and emphasized his *“respect and commitment to all rules and regulations governing endurance rides”*.
- 4.3 Mr. Al Hosani advised that his first qualifying ride occurred when he was 13 years old. Since then, he has *“participated in many rides”* and has had *“many achievements”*. To date, he has not breached any FEI rules or regulations.

5. Jurisdiction

- 5.1 The Tribunal has jurisdiction over the matter pursuant to the Statutes, GRs and IRs.

6. Admissibility of the Claim

- 6.1 The Protest submitted to the Tribunal by the FEI Secretary General through the FEI Legal Department against Mr. Al Hosani arises from an alleged horse abuse. Any such Protest may be lodged by anybody under Article 163.2 of the GRs. Since Mr. Al Hosani was registered with the FEI at the time of the incident, the Protest is admissible and the Tribunal will decide on the matter in accordance with applicable rules and regulations.

7. Decision

- 7.1 To determine the merits of this case, the Tribunal has to decide: 1) whether Mr. Al Hosani violated Article 810.2 of the ERs; and 2) if so, whether Mr. Al Hosani committed a horse abuse as defined in Article 142 of the GRs occurred.
- 7.2 At the outset, the Tribunal considered Mr. Al Hosani’s explanation that he *“did not intend at all to hit or abuse the horse”*. The Tribunal disagrees. In the Tribunal’s view, the video evidence shows that he clearly hit the Horse with the water bottle twice and in an aggressive manner. The Tribunal disagrees with his claim that he *“poured the water vigorously due to speed”*. Mr. Al Hosani’s conduct is further described in Ms. Cuckson’s Protest where she stated he *“strikes the horse in an angry manner on*

the neck twice. This is done forcefully and from height, in an action quite different from pouring a slosh bottle". The Tribunal further noted that before hitting the Horse, Mr. Al Hosani gave the Horse a big kick.

- 7.3 The first question is whether Mr. Al Hosani violated Article 810.2 of the ERs, which states: "*Whips (or the use of any other item as a whip) and Spurs are prohibited.*" This Article is clear that whips are prohibited during Endurance events. As described in the previous paragraph, the Tribunal finds that Mr. Al Hosani used the water bottle as a whip to hit the Horse and therefore finds that he violated Article 810.2 of the ERs.
- 7.4 The next question is whether Mr. Al Hosani's conduct constitutes horse abuse under the applicable FEI rules and regulations. The FEI Code of Conduct for the Welfare of the Horse considers the misuse of artificial aids such as whips as horse abuse that is not tolerated. Furthermore, Article 142.1 of the GRs set out the principle that no person may abuse a horse during an event or at any other time and defines the word "*abuse*" to mean "*an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse*". This Article then gives a non-exhaustive illustrative list of what constitutes horse abuse, which includes to "*whip or beat a Horse excessively.*" As stated, the Tribunal finds that Mr. Al Hosani used the bottle as a whip to hit the Horse twice and in an aggressive manner. This is clearly visible in the video. The Tribunal noted that Mr. Al Hosani's actions occurred during loop 4 when the Horse's average speed was dropping. The Horse's speed was 24.24 kph in loop 1 but dropped to 18.12 kph in loop 4 and 14.11 kph in loop 5. The Tribunal thinks that Mr. Al Hosani most likely hit the Horse out of frustration or anger because of the Horse's falling speed. In any event, the Tribunal finds that Mr. Al Hosani misused his water bottle as a whip to beat the Horse excessively. The Tribunal further finds that his actions constitute horse abuse because he likely caused pain or unnecessary discomfort to the Horse, as defined in Article 142.1 of the GRs
- 7.5 As a result, the Tribunal concludes that under the definition of horse abuse in the GRs, read together with the ERs, the Protestor discharged her burden of proof to establish horse abuse under the applicable FEI rules and regulations, namely Article 142.1 of the GRs together with the FEI Code of Conduct for the Welfare of the Horse.
- 7.6 Moreover, the Tribunal finds Mr. Al Hosani's actions as unacceptable and merits sanctions. Mr. Al Hosani participated in his first race when he was 13 years old. He should be well informed that using a water bottle as a whip is prohibited in Endurance racing and any form of horse abuse will not be tolerated. In addition, the Tribunal noted that Mr. Al Hosani seemed to show no remorse for his actions and described what happened

as a "*matter of misunderstanding*". As a result of these circumstances, the Tribunal finds a suspension six (6) months, in accordance with Article 169.6.2 of the GRs, in combination with a fine and disqualification, as provided for in Article 169.8 of the GRs, as proportionate.

7.7 As a result of the foregoing, the Tribunal finds that Mr. Al Hosani has violated Article 810.2 of the ERs. Furthermore, the Tribunal finds that the actions of Mr. Al Hosani are considered as horse abuse within the meaning of Article 142.1 of the GRs. For the above reasons, and in accordance with Articles 142.1, 169.6.2, 169.8 and 169.10 of the GRs, the Tribunal therefore decides as follows:

1. The Protest is admissible.
2. Mr. Al Hosani has violated Article 810.2 of the ERs.
3. Mr. Al Hosani has engaged in horse abuse and thereby violated Article 142 of the GRs.
4. Mr. Al Hosani shall be suspended for a period of **six (6) months** starting from the date of the present decision.
5. **All results** achieved by Mr. Hosani with the Horse at the Event, including forfeiture of medals, points and prizes shall be **disqualified**.
6. Mr. Al Hosani shall be fined **two thousand Swiss Francs (CHF 2,000)**.
7. Mr. Al Hosani shall contribute **one thousand Swiss Francs (CHF 1,000)** towards the cost of these proceedings.

7.8 According to Article 168 of the GRs, this Decision is effective from the date of its oral or written notification to the affected party or parties.

7.9 According to Articles 165.1.3 and 165.6.1 of the GRs, this Decision may be appealed to the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

V. DECISION TO BE FORWARDED TO:

The Parties: Yes

Any other: NF

FOR THE PANEL

A handwritten signature in blue ink, appearing to read "H. Thauli", is centered within a light gray rectangular box.

Ms. Harveen Thauli, FEI Tribunal panel chair