

# JUDICIAL COMMITTEE FOR EQUESTRIAN SPORTS NEW ZEALAND

**MARLBOROUGH DRESSAGE GROUP**

COMPLAINANT

**v**

**TONIA STEWART**

RESPONDENT

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## **DECISION OF JUDICIAL COMMITTEE**

Members: James Gurnick (Chair), Malcolm McKee and Victoria Latta

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## DECISION OF JUDICIAL COMMITTEE

- 1 Equestrian Sports New Zealand (**ESNZ**) received a formal complaint from Ms Tracy Johnson on behalf of Marlborough Dressage Group on 13 July 2020 against Ms Tonia Stewart filed under Articles 141 and 144 of the ESNZ General Regulations (**the complaint**).
- 2 The complaint arises out of an incident on 5 July 2020 at Marlborough Equestrian Park alleging a breach of the general rules and regulations 2.4 (2020) chapter 7: abuse of competitor and horse, article 132 abuse of horse.
- 3 The statement of complaint dated 13 July 2020 provides:

The Organising Committee of Marlborough Dressage Group has received multiple formal written complaints relating to the actions of the person handling the ESNZ registered horse “WE Rockadeus” (ESNZ 284775) (**the horse**), and subsequent abuse of Riders, Judges and Spectators observing the abusive situation, which occurred 5 July 2020 at our recent Winter Dressage Competition, held at Marlborough Equestrian Park.’

- 4 The complainant seeks a fair and reasonable review of the complaint for all parties and, if necessary, for ESNZ to take appropriate action, if required.

### SUMMARY

- 5 A number of statements “A” to “C” in support of the complaint were provided to the respondent to respond.
- 6 Without detailing the statements verbatim, in essence, the complaint arose at the close of day one of the Marlborough Dressage Winter series held at the Marlborough Equestrian park.
- 7 The respondent’s husband, Mr Dave Stewart was having trouble loading the horse into a truck, (presumably used to transport the horse to the event) in the park/yarding area.

- 8 Observers saw Mr Stewart attempting over a prolonged period (approximately one hour) to load the horse into the truck unsuccessfully.
- 9 The general theme of the witness statements made in support of the complaint was that the horse was in a distressed state and it was clear that Mr Stewart was frustrated that the horse was not cooperating.
- 10 The actions described by the witnesses suggest Mr Stewart was exercising excessive force in attempting to get the horse into the truck.
- 11 Witnesses also described Mr Stewart as being verbally abusive to the horse and at times to those observing.
- 12 According to the witness statements, it is fair to say that those bystanders observing were also distressed by the actions of Mr Stewart (and to a lesser extent Mrs Stewart).
- 13 Some of the bystanders tried to intervene in an effort to calm the situation. It appears that the intervention was not well received by Mr Stewart.
- 14 After taking the horse for a walk for approximately 15 minutes, it appears that the horse became settled and was eventually able to be put in the truck without further incident.

#### **RESPONSE**

- 15 In response to the complaint, Mr and Mrs Stewart responded in a statement dated 23 July 2020.
- 16 In the first instance, Mr and Mrs Stewart formally and sincerely apologised to anyone that was unintentionally offended or distressed by what happened. The apology extended particularly to the Marlborough Dressage Group.
- 17 In explanation, they stated that they did not intentionally mean to cause any distress to the horse or any bystanders and Mr Stewart sincerely wishes the situation had never happen.

- 18 The Stewarts claim that the horse was not 'stressed' or shut down, only that he is very resilient and can be very stubborn. There is an acknowledgement that the dressage whip was used but at no time did the horse have a welt or any marks on his body showing that the whip was not applied with extreme force.
- 19 Mr and Mrs Stewart acknowledge that Mr Stewart was under extreme stress at the time having recently received some personal health news.
- 20 In addition, the statement reads "I know it's not an excuse, but added stress can be extremely frustrating and desperation can kick in."
- 21 The Stewart's statement ends again with a sincere apology for any distress caused.

#### **JURISDICTION**

- 22 A Judicial Committee of ESNZ has been established to consider the complaint.
- 23 A Judicial Committee established under Article 141 of the regulations has a general jurisdiction and shall consist of not less than three persons appointed by the Board, one of whom shall be a Barrister and Solicitor of the High Court and who will act as Chairman of the Judicial Committee.
- 24 The Judicial Committee shall have jurisdiction to consider any complaint referred to it under Article 132.<sup>1</sup>
- 25 Matters must be referred to the Judicial Committee by way of a complaint as set out in Article 144 or as otherwise specified in the applicable regulation.
- 26 The Judicial Committee shall determine the process and procedure that will be followed to deal with the complaint.<sup>2</sup>

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<sup>1</sup> General And Veterinary Regulations and Policies – Article 132

<sup>2</sup> Article 141, cl 8.

- 27 This may involve a preliminary conference held by telephone or such other convenient means to deal with preliminary matters including procedural matters. The Judicial Committee may make such preliminary orders as it thinks appropriate.
- 28 The Judicial Committee shall determine its own procedure and the Chairperson shall, if necessary, make orders as to the conduct of the hearing. However in each case, the Judicial Committee shall ensure that any affected party has a reasonable opportunity to be heard and present the case, and shall ensure that all proceedings are determined in accordance with the principles of natural justice.<sup>3</sup>
- 29 The Judicial Committee may make such order/orders as it thinks fit in the circumstances and/or impose any one or more of the penalties and orders listed at Article 141, cl 30.

## **DISCUSSION**

- 30 Having considered the material before it, the Judicial Committee met by audio-visual conference on Saturday, 22 August 2020 and further corresponded by email, to discuss the complaint. A Judicial Committee meeting was also convened on 5 September 2020.
- 31 The Judicial Committee has considered all of the material provided on behalf of Marlborough Dressage Group and the Stewarts.
- 32 The Committee does not consider that a hearing is required. On the other hand, the committee is satisfied that there is an implicit acknowledgement by Mr and Mrs Stewart in their statement that their actions were out of order and below the standard required by members attending equestrian events.
- 33 While in large part, the complaint involves the actions of Mr Stewart, who is not a member of Equestrian Sport New Zealand, Mrs Stewart is a member of Equestrian Sport New Zealand. Under Article 131, Mrs Stewart

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<sup>3</sup> Article 141, clause 8.

is the person responsible for her horse and the actions of any other person of her entourage at events who have dealings with her horse.

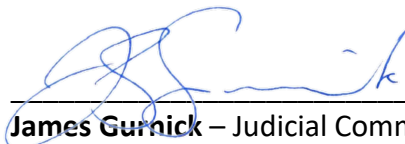
- 34 While the committee considers that the Stewarts' actions may not have amounted to abuse within the meaning of "abuse" provided in Article 132, the committee is satisfied that the actions of the Stewarts on the date in question were inappropriate and below the required standard.
- 35 On that basis, an "Official Warning" is the appropriate sanction in the circumstances.
- 36 It goes without saying that the welfare of horses is critical to the maintenance of equestrian sport in New Zealand. Animal cruelty will not be tolerated anywhere let alone in a sport such as equestrian. The Judicial Committee recognises that there will be times when riders and handlers are required to be assertive and exercise a degree of force when dealing with a horse.
- 37 On the other hand, excessive force which tips over to "abuse" will never be acceptable. It is therefore incumbent on members to have at the forefront of all that they do in the sport, the welfare of the animal. This must be so to ensure that standards of animal welfare do not slip.
- 38 When standards drop, it can be the start of a slippery slope. There can be no doubt, when it comes to animal welfare, that if high standards are not maintained, there is a very real risk that the sport will fall into disrepute. If that occurs, it not only impacts on those who are responsible for reduced standards, but it also tarnishes those who maintain high standards.
- 39 It is important in the Judicial Committee's view that an official warning is issued, not only as a reminder to the Stewarts to continue to maintain high standards, but also as a deterrent to others.

- 40 It is also important to ensure that members are not discouraged from making a complaint when there are concerns about animal welfare. Clearly, the Judicial Committee does not support the making of frivolous or vexatious complaints. Equally, members ought not to be deterred from making valid complaints.
- 41 In part, the complaints regime is designed to ensure the integrity of the sport is maintained and that standards remain high. If standards were to drop, that can only have a negative impact on the sport in general and those associated with it.


### **CONCLUSION**

- 42 For the reasons set out above, the committee issues an official warning to Mrs Stewart which will sit on her record for a period of 12 months from the issue of this decision. The matter is now at an end.
- 43 The complainant is to be reimbursed the cost of the filing fee.

5 September 2020

  
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**James Gurnick** – Judicial Committee Chair

  
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**Malcolm McKee** – Judicial Committee member

  
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**Victoria Latta** – Judicial Committee member