

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)  
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)**

January 4, 2022

N°: SDRCC 21-0525

**Chase Steer  
(Claimant)**

and

**Equestrian Canada (EC)  
(Respondent)**

and

**Marilyn Dawson-Dixon  
(Affected Party)**

**DECISION**

Submissions

On behalf of the Claimant: Lisa Lazarus

On behalf of the Respondent: Michelle Kropp

1. On November 5, 2021, I was selected under Subsection 5.3(b) of the Canadian Sport Dispute Resolution Code (the “*Code*”) to hear Chase Steer’s request for arbitration. Mr. Steer sought an Order that Equestrian Canada (“EC”) “re-open and review” his February 2021 complaint regarding the conduct of the Affected Party.
2. The Affected Party elected to participate only as a “silent observer.”

3. I held a Preliminary meeting with the parties on November 11, 2021 to establish a schedule for the filing of written submissions and an oral hearing.
4. On December 3, 2021, the Claimant sought an Order compelling Equestrian Canada to produce a number of documents. The Claimant also sought an Order to compel the attendance of two witnesses at a hearing.
5. In light of the timing of the request and the hearing schedule, I issued a short decision on December 9, 2021 pursuant to Subsection 5.7 (f) of the Code denying Mr. Steer's request and indicated that written reasons would follow.
6. On December 27, 2021, I issued a short decision denying Mr. Steer's appeal, with reasons to follow.
7. These are my reasons for denying Mr. Steer's interim application for production of documents and compelling witnesses as well as my decision on the merits of the appeal.

## **BACKGROUND**

8. EC is a society incorporated under the *Canada Not-for-Profit Corporations Act* (SC 2009, c. 23) ("*CNCA*"). It is recognized by Sport Canada, the Federation Equestre Internationale (FEI) as well as the Canadian Olympic Committee and Canadian Paralympic Committee as the national governing body for equestrian sport and recreation in Canada.
9. Chase Steer is a member of the United States Equestrian Federation ("*USEF*"). Marilyn Dawson-Dixon is a member of EC.
10. Mr. Steer alleges that in 2018, he and a business partner entered into an arrangement with Ms. Dawson-Dixon relating to, among other things, the lease and purchase of horses. That business relationship ended in November 2020 and on February 3, 2021, Mr. Steer and his business partner filed a lawsuit against Ms. Dawson-Dixon. EC is not a party to that action, which remains unresolved.

11. On February 9, 2021, Mr. Steer filed a complaint under EC's Discipline, Complaints and Appeal Policy (the "Policy") alleging that Ms. Dawson-Dixon had entered the horse Peninsula Vertigo (the "Horse") into a USEF competition under her name. He contended that in doing so, she created a false EC Horse Recording in breach of EC's Policies. Mr. Steer asked EC to invalidate the Horse Recording for the Horse and to take disciplinary action against Ms. Dawson-Dixon.
12. On March 11, 2021, EC's independent, third-party Complaint Manager, Brian Ward, informed Mr. Steer that EC had deleted/invalidated the Horse Recording from its system, and that EC would act as the complainant in the matter.
13. Later that day, counsel for Mr. Steer advised the Complaint Manager that Mr. Steer was not prepared to withdraw his complaint, that he wanted to participate as an "affected Party" as defined in the Policy, and appear at any hearing.
14. On March 31, 2021, the Complaint Manager informed counsel for Mr. Steer that EC was proceeding by way of a disciplinary process rather than a complaint process and that the disciplinary process did not allow for Mr. Steer's participation as an affected party. The Complaint Manager asked Mr. Steer whether he wished to withdraw his complaint in the circumstances. Mr. Steer informed EC that he would not do so and wished to proceed to the next steps, and sought advice on what the next steps would be.
15. On April 7, 2021, the Complaint Manager wrote to Mr. Steer's counsel, informing her that he had been made aware that EC had already deleted/invalidated the Horse Recording for the Horse, and that it had undertaken disciplinary action against Ms. Dawson-Dixon relating to the alleged misrepresentation:

*I have been made aware that EC has already deleted/invalidated the Dixon Horse Recording for Peninsula Vertigo and have undertaken disciplinary action as against Dixon relating to the alleged misrepresentation of the Horse Recording for Peninsula Vertigo.*

*In the circumstances, I have determined that the Complaint is moot and "does not warrant a hearing or an investigation" (or any other further*

*action) as per Section 22 d) of the Policy. This decision may not be appealed.*

*[...]*

*The matter is now closed.*

16. On May 4, 2021, counsel for Mr. Steer wrote to the Complaint Manager acknowledging that Mr. Steer could not appeal his decision under the Policy, but asserted that EC's initiation of disciplinary action did not render the complaint moot. In particular, counsel noted that the Complaint Manager had not considered Mr. Steer's request for reimbursement of his legal fees. Mr. Steer's counsel also questioned why concurrent disciplinary and complaint proceedings were not permitted and asked why Mr. Steer could not participate in the disciplinary proceedings as an Affected Party. Counsel noted that, under the Policy, Affected Parties were "recognized, may be involved in the disciplinary process, and are informed of the outcome." Mr. Steer contended that because his horse was fraudulently registered by Ms. Dawson-Dixon, he was an Affected Party as defined in the Policy.
17. On July 27, 2021, counsel for Mr. Steer wrote to the Complaint Manager noting that because Mr. Steer's request to be identified as an Affected Party had been denied, Mr. Steer had been left with no insight into the resolution of his complaint. Mr. Steer wrote that, to his knowledge, no action had been taken against Ms. Dawson-Dixon as she remained an active member of EC in good standing and asked the Complaint Manager for confirmation that disciplinary action had been undertaken.
18. On September 29, 2021, counsel for Mr. Steer wrote to EC noting that although the Complaint Manager had confirmed that disciplinary action had been taken against Ms. Dawson-Dixon, this representation was incorrect. Counsel wrote that her understanding that there had only been administrative consequences in this matter. Counsel wrote:

My clients relied on Mr. Ward's representation that disciplinary action had been undertaken and for that reason accepted (and did not challenge) that their complaint was moot. However, it now seems like that reliance

was misplaced. Given that my clients initiated the complaint, and given EC's representation that my clients should abandon the complaint *because* discipline was imposed, our view is that the complainants are entitled to some transparency and information about the outcome of *their* Complaint.

## ISSUE

19. At issue is whether or not the Complaint Manager properly exercised his authority in a) dismissing Mr. Steer's complaint and b) not granting Mr. Steer the status as an Affected Party as defined in the Policy.

### Preliminary issue

20. Mr. Steer sought an Order compelling production of evidence; specifically, a list of prior sanctions issued for misuse or abuse of the EC horse recording system, if any; a list of horse recordings that were invalidated in the past five years, and the reason for such invalidations; a list of EC cases where an Affected Party partook in the proceedings; unpublished internal rules or practices related to EC horse recordings; internal communications related to the management of Mr. Steer's complaint; and communications between the Complaint Manager and EC related to the management of Mr. Steer's complaint. Mr. Steer also sought an Order compelling the attendance of Rachel Huebert, EC's director of Sports Operations as well as the Complaint Manager.

21. EC opposed the application, arguing that none of the documents sought by Mr. Steer are relevant to the central question in this matter; that is, whether the Complaint Manager erred in dismissing Mr. Steer's complaint against Ms. Dawson-Dixon. EC also contended that its communications with the Complaint Manager are both private and confidential and privileged, and further, that the documents Mr. Steer sought to have produced were irrelevant to the issue on appeal; that is, whether the Complaint Manager erred in dismissing Mr. Steer's complaint.

22. EC further contended that the assertion that the communications were necessary to establish "the source of the apparent inaccurate communication

that Ms. Marilyn Dawson-Dixon had been sanctioned” was entirely unsupported and demonstrate that Mr. Steer “is on what can only be characterized as a fishing expedition for materials to be used in his civil proceedings” against Ms. Dawson-Dixon. EC further states that its practise is not to publish sanctions in the case of horse recordings, and that the outcome of the civil proceedings may determine what, if any, steps will be taken by EC.

## **ARGUMENT**

23. Mr. Steer argues that the Complaint Manager erred in not granting him status as an Affected Party and failed to properly apply the complaint policy. Mr. Steer submits that EC did not properly manage his complaint against Ms. Dawson-Dixon and seeks to have the matter either decided *de novo* by the SDRCC, or, in the alternative, referred back to the Complaint Manager for proper consideration on the merits.
24. Mr. Steer contends that, had the Complaint Manager properly applied the complaints policy, he would have participated in the proceedings either as a complainant or as an affected party and had the opportunity to be heard.
25. Mr. Steer argues that it was on the basis of EC’s representation that disciplinary actions had been taken against Ms. Dawson-Dixon that he agreed not to pursue his original complaint or appeal EC’s decision not to permit him to participate as an affected party. He contends that in the absence of any information to the contrary, no disciplinary action has been taken against Ms. Dawson-Dixon.
26. EC seeks to have the appeal dismissed. It contends that the appeal of the Complaint Manager’s decision was not brought in a timely manner. It argues that the correspondence between Mr. Steer and EC after the Complaint Manager’s April 7, 2021 decision were communicated to him were neither attempts to settle the dispute nor an intention to appeal.

27. EC submits that if I decide that the appeal was brought in a timely manner, the Complaint Manager acted within his jurisdiction in dismissing Mr. Steer's complaint.
28. EC says that Ms. Dawson-Dixon has already been disciplined and the remedy sought by Mr. Steer has already been granted. EC disputes that Mr. Steer is entitled to know what disciplinary action was taken against Ms. Dawson-Dixon, and further, it is not his right or responsibility to ensure that she is properly sanctioned. EC says that Mr. Steer is not a member of EC and that he has failed to explain why information regarding whether or not the sanctioning of Ms. Dawson-Dixon could affect him. Failing that explanation, EC submits that the complaint constitutes an abuse of both EC and SDRCC's processes.
29. Finally, EC says that Section 50 of the Discipline, Complaints and Appeal Policy does not provide for mandatory reporting of decisions; rather, it says that Section 50 permits such decisions to be made public. EC says that it has no obligation to disclose the information Mr. Steer is seeking.
30. In the alternative, EC seeks a dismissal or stay of the proceedings until the civil action between the parties has been resolved, as the issue of the rightful ownership of the Horse has yet to be determined.

## **ANALYSIS**

31. For the reasons that follow, I have decided that the appeal was not filed within the time period provided in the *Code*. I conclude that even if the complaint was filed in a timely manner, I find that the Complaint Manager acted within his discretion in deciding not to proceed with the complaint.
32. I also find that the documents sought by Mr. Steer are not relevant to the central questions in this appeal; that is, whether or not the appeal was filed within 21 days of the contested decision, and whether or not the Complaint Manager properly exercised his discretion in deciding not to proceed with the complaint.

33. There is no dispute that EC has the power and authority to make bylaws relating to the discipline of its members and that it has enacted its bylaws in compliance with all relevant statutory authority.

34. Articles 3.13 and 3.14 of EC's bylaws set out EC's powers to discipline or otherwise sanction members:

*3.13 Disciplinary Authority – The Board shall have authority to reprimand, suspend or expel any Registered Participant, including a Member, from EQUINE CANADA for any one or more of the following grounds:*

*(a) violating any provision of the Articles, By-laws, or Policies of EQUINE CANADA;*

*[...]*

*3.14. Other Sanctions – In addition to withdrawal of benefits for failure to pay dues, Registered Participants, including Members, may have other suspensions, restrictions or sanctions imposed upon them, in accordance with EQUINE CANADA's Policies and procedures relating to discipline of Registered Participants or Members.*

35. Relevant portions of EC's September 23, 2019 Discipline, Complaints and Appeal Policy (the "Policy") are as follows.

*Definitions*

*2. The following terms have these meanings in this Policy:*

*"Affected party" any Individual affected by the alleged complaint, violation, breach, or grievance that forms part or all of the Complaint, including the person or persons against whom the Complaint is being made.*

*"Complainant" the individual or organization, including EC, making a complaint. In the case of an organization, the organization shall identify an individual to*



*represent the organization in the Complaint process. A complaint can also be brought by a volunteer or spectator who is not an Individual.*

*“Complaint Manager” an independent third party – such as, but not limited to, practicing lawyers – qualified to analyze complaints and appeals and determine whether they are admissible and who is designated by the President of EC. The Complaint Manager will receive all Complaints and Appeals, determine if the Complaint or appeal falls within the jurisdiction of EC, and oversee the process set out in this Policy. The identity of the Complaint Manager and all contact information is available on the EC website.*

*“Respondent” The individual or organization against which the Complaint is being made or, in the context of an appeal, an Affected Party to a Complaint that has been appealed.*

*[...]*

*5. This Policy shall be administered by the Complaint Manager. ...*

*[...]*

*12. EC may act as the Complainant if the original Complainant is unwilling or unavailable to participate in this process.*

*[...]*

*21. Once it is determined that the Complaint is within the jurisdiction of EC and is governed by this Policy, the Complaint Manager will advise all Affected Parties, including the Respondent, of the nature and particulars of the Complaint, and request written responses to the Complaint from the Respondent and all Affected Parties [...].*

*22. The Complaint Manager may, at any time or stage:*

*[...]*

*d) determine that the Complaint does not warrant a Hearing or an Investigation and advise the Complainant in writing of that decision. This decision may not be appealed;*

*[...]*

### *Scope, Application and Administration*

*3. This Policy applies to disputes with and among Individuals defined herein.*

*49. The Complaints process is confidential and involves only the parties, the Complaint Manager, the Hearing Panel, witnesses and any persons involved in advising or providing information to the Complaint Manager or Hearing Panel. [...]*

*50. Other persons and organizations, including but not limited to sport organizations and clubs, may be advised of any decisions rendered in accordance with this Policy.*

#### Is the Appeal timely?

36. On March 31, 2021, the Complaint Manager determined that Mr. Steer would not be allowed to participate in the disciplinary proceedings against Ms. Dawson-Dixon as an Affected Party. Mr. Steer did not challenge this determination.
37. On April 7, 2021, the Complaint Manager decided to dismiss Mr. Steer's complaint because it was moot and determined that the "matter" was "closed." The Policy did not permit an appeal from that decision, and Mr. Steer expressly did not appeal it.
38. Mr. Steer had 21 days to appeal the Complaint Manager's decision. Mr. Steer's appeal to the SDRCC is dated November 5, 2021. Mr. Steer's appeal of the Complaint Manager's decision not to allow him to participate in any disciplinary proceedings as well as his decision to dismiss the complaint under Section 22 (d) was filed well past both the 21-day appeal deadline in the Policy as well as the 30-day time period established in the *Code* (6.2 (a)).
39. While there was ongoing correspondence between EC and Mr. Steer's counsel after April 7, 2021, none of the correspondence evidenced an intention to appeal any decision nor seek an extension of time in which to do so.

40. I am also unable to find any evidentiary basis for Mr. Steer's assertion that he agreed to withdraw his complaint upon receipt of the Complaint Manager's assurance that the remedy sought had been granted. Mr. Steer advanced no other arguments for his failure to file his appeal within the specified time limit.

Did the Complaint Manager properly exercise his discretion?

41. Even if Mr. Steer's appeal had been filed in a timely manner of the Complaint Manager's April 7, 2021 decision, I find no error in the Complaint Manager's determination that the complaint did not warrant a hearing or investigation under Section 22 d) of the Policy.

42. There is no dispute that the Complaint Manager's decision was a discretionary one. Appellate bodies will only interfere with the exercise of a discretion by decision-makers on the basis of well-established principles. To establish that the Complaint Manager improperly exercised his discretion, Mr. Steer must demonstrate that the Complaint Manager acted upon a wrong principle, acted in bad faith, considered extraneous or irrelevant matters, failed to take into account material factors or made some mistake in the facts. Absent any evidence establishing any of these errors, a reviewing body may not simply substitute their own discretion for that of the Complaint Manager.

43. In making his decision, the Complaint Manager considered the fact that EC had rectified the Horse Recording and disciplined Ms. Dawson-Dixon. As such, the Complaint Manager determined that there was no reason to further investigate or to hold a hearing as the issues raised in the complaint were moot (or already decided). Mr. Steer has not demonstrated any basis to interfere with this decision.

44. Mr. Steer does not dispute that, as a complainant, he has no standing to review the merits of a self-governing organization's disciplinary decision. (see *Friends of Oldman River Society v. Association of Professional Engineers, Geologists and Geophysicists*, 2001 ABCA 107 (leave to appeal to SCC refused [2001] SCC No. 366)).

45. Mr. Steer argues, however, that the Complaint Manager improperly exercised his discretion and denied him procedural fairness in determining that he was not an “Affected Party” as that is defined in the Policy. I find this argument without merit. Mr. Steer did not challenge the Complaint Manager’s March 31, 2021 decision not to permit his participation in the disciplinary process. The Complaint Manager’s decision not to proceed with a disciplinary investigation or hearing was made approximately one week later and Mr. Steer both acknowledged the Policy’s provision that this decision was not subject to appeal and expressly decided not to appeal it. As the Complaint Manager decided on April 7, 2021 that the complaint was moot and “closed” the “matter”, he was *functus* - having made a decision, he had no further ability to deal with it.
46. None of the evidence sought by Mr. Steer by way of document production or compelling witnesses would have had any bearing on the issues above.
47. In any event, whether or not Mr. Steer could be considered an Affected Party, EC has communicated the results of his complaint to him. It confirmed that the Horse Recording had been changed and Ms. Dawson-Dixon had been disciplined. There is nothing in the Policy that grants Mr. Steer the right to any additional information.
48. Section 50 grants EC the discretion whether or not to publish decisions issued in accordance with the Policy. Counsel for EC says that EC does not publish the results of disciplinary measures where there is no issue of horse safety. While Mr. Steer asserts that Horse Recordings are indeed a matter of horse safety, I am not persuaded that EC improperly exercised its discretion not to publish the details of Ms. Dawson-Dixon’s disciplinary measures. EC has no duty to inform Mr. Steer what steps it has taken regarding his complaint against Ms. Dawson-Dixon beyond what it has already communicated to him.
49. The ability to self-regulate is a privilege and comes with the responsibility to act in the best interests of the public and its members. Transparency and accountability are important aspects of self-regulation to ensure trust and confidence in members and the public. While I am troubled by EC’s failure to

respond to Mr. Steer's communications in a timely fashion, that is not at issue before me.

## CONCLUSION

50. The appeal is dismissed.

Signed in Vancouver, this 4<sup>th</sup> day of January, 2022

A handwritten signature in black ink, appearing to read "Carol L. Roberts", written in a cursive style. The signature is positioned above a horizontal line.

Carol L. Roberts, Arbitrator