

# **EUROPEAN RUGBY CUP**

## **DECISION OF DISCIPLINARY COMMITTEE**

**HELD AT HUGUENOT HOUSE**

**3<sup>rd</sup> FLOOR, 35-38 ST. STEPHENS GREEN**

**DUBLIN 2 IRELAND**

**ON THURSDAY 16<sup>TH</sup> OCTOBER 2008 AT 12.30 p.m.**

### **IN RESPECT OF:-**

Rudi Keil of Sale Sharks ("the Player") and a citing complaint made by Citing Commissioner Achille Reali in respect of Laws 10.4(a) Punching or Striking, 10.4(e) Dangerous Tackling and 10.4(f) Playing an Opponent Without the Ball, during the ASM Clermont Auvergne against Sale Sharks match at the Stade Michelin – Clermont-Ferrand on the 11<sup>th</sup> October 2008.

### **MEMBERS OF THE DISCIPLINARY COMMITTEE:- (the "Committee")**

Mark McParland (Chairman) (IRFU)  
Rob Flockhart (SRU)  
Simon Thomas (WRU)

### **DECISION OF COMMITTEE:**

- (i) The Committee found that the Player had not committed an act of illegal and/or foul play contrary to Law 10.4(a) but had committed an act of illegal and/or foul play contrary to both Laws 10.4(e) and 10.4(f).
- (ii) The Committee in making the finding at (1) above did not find that the act was of such a nature as would have warranted a Red Card and imposed no suspension on the Player.
- (iii) The Committee made no award of costs.

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### **INTRODUCTION**

This Committee was convened by Professor Lorne D. Crerar, Chairman of the ERC Disciplinary Panel, pursuant to the Discipline Regulations of the ERC in respect of a citing complaint made by Achille Reali, the Citing Commissioner.

The citing complaint concerned the conduct of the Player during the Round 1 match of the Heineken Cup played between ASM Clermont Auvergne and Sale Sharks match at the Stade Michelin – Clermont-Ferrand on the 11<sup>th</sup> October 2008.

The citing complaint alleged that the Player struck and/or tackled with his shoulder the ASM Clermont Auvergne number 13, Benoit Baby (“the Opponent”) near the neck who was without the ball and was running to support the action of his team mate number 12.

Present at the hearing, in addition to members of the Committee were:-

Roger O’Connor	(Disciplinary Officer) (ERC)
Max Duthie	(Solicitor) (Representing the Disciplinary Officer)
Rudi Keil	(the Player)
James Jennings	(Chief Executive – Sale Sharks)
Robert Williams	(WRU) Observing

## **HEARING**

At the commencement of the hearing, the Chairman confirmed the identities of all present and established that the Player was before the Committee to answer the citing complaint. The Chairman outlined the procedure to be adopted by the Committee for the hearing and advised that the provisions of the ERC Disciplinary Regulations would apply. The Player and all present agreed to proceed on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing and enquired as to whether all present had received same.

The Committee considered the terms of the citing complaint and the Chairman asked the Player how he wished to plead in relation to the citing complaint and the allegation that he had committed an act of illegal and/or foul play.

The Player denied that he had committed an act of illegal and/or foul play.

Mr Duthie on behalf of the Disciplinary Officer read the citing complaint and opened the Laws of the game with particular reference to the citing complaint to the Committee. He acknowledged that the burden of proof was on the ERC to prove on the balance of probabilities that the acts of illegal and/or foul play alleged had been committed by the Player. He noted that there were no reports or comments from the Match Officials nor had the Opponent made any comment on the matter. In commenting on the video clips of the incident available to the Committee, Mr Duthie noted that the Player leans in to block the Opponent with his shoulder and makes contact with the Opponent in the neck area. It was noted that the Opponent was rolling on the ground. Mr Duthie maintained that the contact was made with a stiff arm at a time when the Opponent was looking towards the ball having changed direction slightly. The Opponent's teammate who was 2-3 metres to his left had moved into contact and that in doing so there was no obvious prospect of the ball being released to the Opponent. The Player was looking right at the Opponent, squatted down before rising into the tackle on the Opponent. When contact was made, the Opponent recoiled and the Player got up to move towards the ball.

In his defence, the Player commented at length regarding the video clips. He noted that the Opponent's tactical move had been explained to his team previously. He explained how the tactical move worked and that it was designed to create a doubt in the mind of the defence team while creating a number of options for the attacking team. He acknowledged that he was at fault in that he was ahead of the ball and that he had lost sight of it as he had been tracking his opposition Winger when his immediate Opponent changed direction and he made a split second decision that the Opponent was taking a short pop pass. He asked the Committee to observe that he was looking behind the contact area after the event and that it was only then that he realised that his Opponent had not received the pass. The Player noted that his Opponent's right knee had bent and that he was transferring his weight. He said that at all times he was looking at the player in front of him and that he had lost sight of the ball expecting the Opponent to receive the pass.

In reply to questions from Mr Duthie, the Player stated that there were no other incidents involving the Player or the Opponent during the game. He

acknowledged that he had clear view of the play as it was unfolding. He said that he was tracking his opposition n.11 when his opposition n.13 crossed with the opposition n.11 creating an overlap with options both short and wide. The Opponent changed his angle and he believed the Opponent was to receive a pop pass. As matters transpired the opposition n.12 went into contact. His shoulders were slightly turned tracking the opposition n.11 and when the opposition n.12 went into contact, he lost sight of the ball. Believing the Opponent to be receiving a pass, he made contact with an open arm. The initial contact was on the shoulder and he acknowledged that it was a split second early. The Player acknowledged that if the ball had been passed to the Opponent his actions may well have been perceived as correct.

In the ensuing play, he had entered a maul where he had received a knock on the head and then a penalty was awarded to the opposition and he dropped back to defend the possible attack. At the point he saw the Opponent being treated, there was no time to enquire as to his wellbeing.

Following the match, the Player said that most of the opposition team had left by the time he had changed and re-hydrated but that he had apologised to the remaining players and officials.

Mr Jennings stated that the Player had replaced Lee Thomas after thirty minutes and that in the play resulting in the citing, he was clearly out of line and in the wrong position. He stated that the Player had expected a pop pass and may have been early in making contact with the Opponent. He accepted that the tackle was made by the Player on the Opponent who did not have possession of the ball and that it was early but put this down to an error in timing. He said that there was no break in play and that the penalty had been played as a tap penalty by the opposition.

In response to questions from Rob Flockhart, the Player explained how the Sale Sharks work their defence pattern to the play. The Player said that the move was designed to cause confusion in the defensive line. When an attack was moving wide, they came up quickly and fanned in the direction the ball was being passed. In this move, the opposition team appeared to have created an

overlap and he was watching the outside and was aligned sideways. The opposition move was designed to make the defensive line commit, thereby creating options to pass back inside or to go long.

In summary Mr Duthie referred to the Citing Commissioners Report and pointed to the fact that the video evidence showed that the Opponent was a considerable distance from the ball and that he was not looking at the Player when he was tackled with an open arm and that if we found the Player's explanation acceptable, it would still constitute foul play. He said it was for the Committee to decide as to whether the Player had struck the Opponent but that his action was clearly dangerous in that the contact area was above the line of the Opponent's shoulders and was early at a time when he did not have the ball. He said that the tackle was dangerous in that there was no effort to bind on the Opponent and that the contact was near the Opponent's neck.

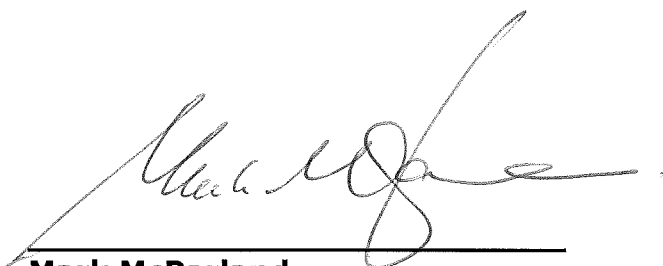
Mr Jennings on the Player's behalf urged the Committee to find that the point of contact was on the upper part of the shoulder and top part of the Opponent's chest.

The Committee retired to deliberate in private in respect of whether the Player had committed an act of illegal and/or foul play and having considered the evidence presented the Committee, found that the Player had not committed an act of illegal and/or foul play contrary to Law 10.4(a) in that there was no evidence of a Striking or Punching by the Player of the Opponent but the Players actions did constitute an act of illegal and/or foul play contrary to Laws 10.4(e) and 10.4(f). In making such finding, the Committee were of the view that the Players actions were careless at best.

In so finding, the Committee believed that the act was not of such a nature as would have warranted a Red Card and accepted the Players evidence to the effect that he had made a split second decision and that he did so in error. In such circumstances the Committee decided to exercise the discretion available to it under Rule 6.7.41 not to impose a suspension on the Player.

The Committee warned the Player as to his future conduct and drew his attention and the attention of Sale Sharks to the IRB Council Decision of the 1<sup>st</sup> November 2007 in respect of dangerous tackling.

The Committee noted that Sale Sharks had appeared in two of the four citing complaints made arising from the Round 1 games and emphasised the need for the Club to abide by the IRB Council Decisions and Directives and expressed the hope and expectation that the Club and its players would not be before another Disciplinary Committee during the current competition.

A handwritten signature in black ink, appearing to read 'Mark McParland', written over a horizontal line.

**Mark McParland**

**Chairman Disciplinary Committee**

**20<sup>th</sup> October 2008**