



IN THE DISTRICT COURT OF OKLAHOMA COUNTY OCT 20 2017  
STATE OF OKLAHOMA

RICK WARREN  
COURT CLERK

73\_\_\_\_\_

ARNO HONSTETTER, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
NATIONAL REINING HORSE )  
ASSOCIATION, )  
 )  
Defendant. )

Case No. CJ-2017-5864  
*Judge Lisa Davis*

**DEFENDANTS RESPONSE TO  
PLAINTIFF'S MOTION FOR TEMPORARY INJUNCTION**

Defendant National Reining Horse Association (“NRHA” or the “Association”) respectfully requests that the Court deny Plaintiff’s Motion for Temporary Injunction. Plaintiff cannot establish the necessary elements for this court to enter a Temporary Injunction. This case is essentially an alleged breach of contract between two private parties. The mandatory injunctive relief requested would read terms into the contract that are not required by law and were not contemplated by the contracting parties. Injunctive relief is also not warranted because the damages sought in this case are monetary.

**FACTUAL BACKGROUND**

**I. The NRHA Bylaws and Rules**

The NRHA is a voluntary association of members organized “[t]o promote and encourage development of and public interest in agriculture and ranching through the promotion of public reining horse shows,” and for “the development of suitable and proper standards of performance and judging,” as well as “to encourage the development and breeding of better Reining Horses[] and to develop and disseminate informational material deemed desirable to

provide contestants and spectators a better understanding of a proper performance of the reining horse in the show arena.” (2016 NRHA Handbook (the “Handbook”), Bylaws art. I, § 2).

Under the bylaws, membership in the association is open to any individual of good character and reputation, but membership is granted, rejected, or revoked at the discretion of the Executive Committee.<sup>1</sup> *Id.* In consideration of that membership, each member agrees to submit to the rules and regulations of the Association. *Id.* art. II § 2. Under these rules, disciplinary measures may also include assessment of a fine or suspension of membership. *Id.* Rules, Part D § 1.

The rules provide a procedure for complaints to be filed when a member engages in conduct warranting disciplinary action. *Id.* Rules, Part D § 4. When such a complaint has been filed, an Investigation Review Committee (IRC) performs a preliminary review of the complaint. *Id.* Rules, Part D § 5. If the IRC determines that the matter warrants a hearing, it then advances the matter to a hearing body. *Id.* The hearing procedure is informal and not subject to civil or criminal rules of evidence. *Id.* Rules, Part D. § 7. The hearing body makes a disciplinary determination that is final and binding, but which may be appealed to the Executive Committee. *Id.* Rules, Part D § 6.

As relevant here, conduct warranting disciplinary action includes abuse or mistreatment of any horse in any manner whatsoever on the show grounds. *Id.* Rules, Part D § 3. Abuse is defined in the rules as “an action, or failure to act, which a reasonably prudent person, informed and experienced in the customs, accepted training techniques, and exhibition procedures, would determine to be cruel, abusive, inhumane, or detrimental to the horse’s health.” *Id.*

---

<sup>1</sup> The NRHA is governed by a Board of Directors and, from that Board, an Executive Committee. *See id.* art. I, § 5; art. VI, § 1; and art. VII, § 1.

## II. Plaintiff's Disciplinary Proceeding

On December 19, 2016, the Association received a protest form alleging that Arno Honstetter was responsible for abuse of a horse at the 2016 NRHA Futurity show in Oklahoma City, Oklahoma. (Protest Form and Letter of Complaint). In a response letter dated February 1, 2017, Plaintiff admitted that the horse was in his care and was his responsibility, and apologized. (Response Letter).

A hearing was held on May 1, 2017, at 1:00 p.m. (Findings and Order). All information regarding the protest, including the Protest Form, the Letter of Complaint, and video of the horse filmed on the night of the abuse, was provided to Plaintiff at 9:00 a.m. that day. *Id.* Plaintiff was provided a private office in which to review these materials. Plaintiff did not object to the time allowed to review the hearing materials and did not request a continuance. (Findings and Order).

At the hearing, Plaintiff admitted that he was responsible for the horse and did not deny the circumstances for which the horse was found. *Id.* He apologized and stated "I completely understand that we cannot have this behavior happening and it is not anything I support, nor is it who I am." *Id.* Ultimately, the hearing body found that an abuse of a horse had occurred under Part D § 3 of the rules and imposed the following discipline on Plaintiff: 1) suspension of membership and privileges for three (3) months, 2) placement on probation for one (1) year after completion of the suspension period, and 3) a fine of \$1,000 to be paid at the end of his suspension period.

Plaintiff appealed the decision to the Executive Committee. On August 21, 2017, Plaintiff was advised that the NRHA Executive Committee affirmed the Findings and Order of the Hearing Body and set Plaintiff's period of suspension to commence on October 1, 2017. After the suspension had taken effect, Plaintiff filed this suit alleging breach of contract and

seeking a declaration that the decision of the Association was arbitrary and capricious. He has now moved for a temporary injunction to reinstate his membership privileges and nullify the Association's factual findings and disciplinary order.

### **STANDARD OF REVIEW**

Preliminary injunctive relief is an extraordinary remedy intended to preserve the status quo and allow the Court "to render a meaningful decision on the merits of the controversy." *Edwards v. Bd. of Cnty. Comm'rs of Canadian Cnty.*, 2015 OK 58, ¶ 10, 378 P.3d 54, 58. "To obtain a temporary injunction, a plaintiff must show that four factors weigh in [his] favor: 1) the likelihood of success on the merits; 2) irreparable harm to the party seeking injunction relief if the injunction is denied; 3) [his] threatened injury outweighs the injury the opposing party will suffer under the injunction; and 4) the injunction is in the public interest." *Id.* ¶ 12, 378 P.3d at 59. Plaintiff has an elevated burden of proof to show his right to relief by clear and convincing evidence. *See id.* ("The right to injunctive relief must be established by clear and convincing evidence and the nature of the injury must not be nominal, theoretical or speculative.").

Moreover, Plaintiff seeks mandatory injunctive relief by asking the Court to command the Association to extend membership privileges to him. *Osage Nation v. Bd. of Comm'rs of Osage Cnty.*, 2017 OK 34, ¶ 42 n. 53, 394 P.3d 1224, 1239 ("An injunctive request has the nature of a mandatory injunction when it seeks the restoration of a thing to its original condition."). And a mandatory temporary injunction should be disfavored unless the movant shows that "the need is urgent and the right is clear." *State ex rel. State Highway Comm'n v. Gillam*, 1940 OK 390, ¶ 11, 105 P.2d 773, 775.

## ARGUMENTS & AUTHORITIES

Plaintiff's right to relief in this case is anything but clear. His claims center on the suspension of membership privileges in a private and voluntary association of reining horse enthusiasts. Each complaint of procedural deficiency is either not supported by the requirements in the contract (the Handbook) or is contradicted by the factual record. Ultimately, Plaintiff's claimed injuries amount to monetary damages for breach of contract. A grant of temporary injunctive relief to interfere with the Association's internal disciplinary procedures and decisions regarding membership privileges would prejudice the show's ability to regulate its shows and memberships and would disserve the public interest.

### **I. Plaintiff's Claims Have No Chance of Success on the Merits.**

An association's bylaws and rules constitute a contract between the association and its members. *State ex rel. Okla. Bar Ass'n v. Gasaway*, 1993 OK 133, ¶ 8, 863 P.2d 1189, 1193–94. Enforcement of its published rules is an internal matter that is not appropriate for judicial intervention if the rules are reasonable, lawful, and consistent with public policy, and they are interpreted and enforced fairly, reasonably, in good faith, and not in an arbitrary manner. *Wright City Pub. Sch. v. Okla. Secondary Sch. Activities Ass'n*, 2013 OK 35, ¶ 22, 303 P.3d 884, 889–90 (internal citations omitted). This standard of review reflects judicial deference in cases where contracts give one party the power to exercise discretion in decision making. *Id.* Despite Plaintiff's conclusory reference to a denial of due process, this is not a claim of Constitutional dimensions. **The Association is not a government entity.** See *Bittle v. Okla. City Univ.*, 2000 OK CIV APP 66, ¶ 18, 6 P.3d 509, 515–16 (refusing to apply constitutional due process requirements to private university disciplinary action because no 'state action' occurred). The

only “process” required by law is that imposed by the contract or contract law principles designed to ensure good faith execution of the contract.

Plaintiff’s claim for breach of contract (and the related request for declaratory relief) is premised on eight specific complaints and each of them is unsupported by either the record or by the requirements of the contract.

**A. Plaintiff had ample opportunity to review the hearing materials and request a continuance if he needed one.**

The evidence against Plaintiff in the disciplinary hearing consisted of a two-page protest form, a one-page email, and a thirty-second video clip. All of these materials were prepared and presented to Plaintiff for his review in a private office five hours before the hearing. His claim, then, that he lacked meaningful opportunity to review the evidence “until minutes before the start of the protest hearing” is flatly contradicted by the facts memorialized in the Findings and Order. Plaintiff did not object on the date of the hearing to the time he was allowed for review of the materials and he did not request a continuance. The Handbook contained no specific requirements for the time allowed to review evidence, and Plaintiff has not cited to such a provision. The issue, then, is whether the Association was arbitrary or unreasonable in its allowance of time for Plaintiff to review the evidence. Five hours to examine three pages and a thirty-second video clip is a reasonable period of time.

Even if the time allotted to review the evidence were considered unreasonable, Plaintiff cannot show that he was prejudiced as a result. He has referenced no additional argument that he would have made if he had had more time, and he has not indicated how the hearing would have resulted in different findings. In sum, this alleged procedural deficiency is false and irrelevant.

**B. Plaintiff is not entitled to “confront his accuser” at the hearing.**

The individual who submitted the protest form, Ms. McCuiston, was not present at the hearing and was not subject to cross-examination by Plaintiff. However, the Handbook provides no expectation of such a right. Plaintiff has cited to no authority indicating that such a right should be imposed on a proceeding for a private, voluntary association. This was not a criminal prosecution to which rights attach under the Sixth Amendment of the U.S. Constitution. *See* U.S. Const. amend. VI (“*In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him . . .*” (emphasis added)).

In the absence of any contract provisions or legal authority imposing a right of confrontation, the question, once again, is whether the Association was arbitrary or unreasonable in not requiring Ms. McCuiston to appear at the hearing. Plaintiff has offered no argument or legal authority to support that position, and Plaintiff has not indicated that the hearing would have resulted in different findings if he had had the opportunity to examine Ms. McCuiston. The inability to confront his accuser was not a right to which he was entitled, and cannot be the basis of a procedural deficiency.

**C. The Association was not required to itemize conduct qualifying as actionable abuse in the Handbook.**

According to the Handbook, abuse is “an action, or failure to act, which a reasonably prudent person, informed and experienced in the customs, accepted training techniques, and exhibition procedures, would determine to be cruel, abusive, inhumane, or detrimental to the horse’s health.” (Handbook, Part D § 3). Plaintiff complains that there is not a list of conduct that constitutes Abuse. Such a list is impractical and not required. It was up to the Association’s discretion to decide that the actions and circumstances at issue constituted Abuse as defined by its Handbook. The fact that Plaintiff apologized and promised that the conduct would not happen

again, both at the hearing and in his February 1, 2017, letter to the Association, belies the assertion that his conduct amounted only to a common and acceptable training practice or that the practice was employed for a legitimate training purpose.

**D. The Association is not required to obtain expert evidence.**

The Handbook does not require any particular evidence be presented to establish the presence of abuse. In fact, the Handbook states that the hearing proceedings are informal and that Oklahoma or common law rules of evidence (criminal or civil) need not be strictly observed. (Handbook Part D § 7). The lack of expert evidence as to whether Plaintiff's behavior constituted abuse does not render the proceeding deficient.

Expert evidence is generally offered to assist fact-finders in judicial proceedings where the expert's "scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue." Federal Rule of Evidence 702. Unlike a trial before a jury composed of laypersons, an Association hearing is held before two members of the Board and three external NRHA members in good standing. (Handbook Part D § 6). All of these members are reining horse enthusiasts. *Id.*, art. II § 1. They may not be veterinarians, but it is not arbitrary for them to find that abuse occurred based on the evidence in the record, Plaintiff's testimony and apology, and their own experiences and knowledge of reining horses.

**E. The Association properly found that willful abuse of the horse occurred.**

The Handbook provides that "[n]o one shall abuse or mistreat any horse in any manner whatsoever on show grounds" and that "[i]ndividuals will be subject to the disciplinary procedures if it is determined that there was a willful abuse of the horse." (Handbook, Part D § 3). The Association was not arbitrary in concluding that Plaintiff's behavior constituted abuse.



The Association was also not arbitrary in concluding that that abuse was willful and subject to disciplinary action.

Willfulness generally describes conduct that is “voluntary and intentional, but not necessarily malicious.” Black’s Law Dictionary 1372 (Abridged 9th ed. 2010). It has been interpreted in multiple ways in Oklahoma law, notably including “some degree of conscious wrong or evil purpose upon the part of the actor, or at least an inexcusable carelessness on his part, whether the act be right or wrong.” *State v. Price*, 2012 OK 51, ¶ 23, 280 P.3d 943, 951 (internal quotation marks and citations omitted) (discussing various interpretations of the term “willful.”).

Plaintiff admitted that he was responsible for the horse, and testified that the conduct would not happen again. There was substantial factual evidence and reasonable inferences drawn therefrom on which to base a determination of willful abuse of the horse, and this determination by the Association was not arbitrary or capricious.

**F. Plaintiff’s Appeal was properly conducted.**

The Handbook provides for appellate review by the Executive Committee of the Hearing Body’s decision. (Handbook, Part D § 6). This appeal is not automatic, but is initiated upon notification and the payment of a filing fee. *Id.* Plaintiff requested and received his appeal per the Handbook. *Id.*

Plaintiff fails to show why an additional procedure should be read into the terms of the contract or how the outcome of the Association’s decision would be different if he had presented additional evidence or argument. As a result, the Association should not be found to have been arbitrary or capricious in declining to provide a special hearing for Plaintiff’s appeal.

**G. The penalty was not unfair or unreasonable, and its timing was not malicious.**

The contract vests the Hearing Body with the authority to impose penalties ranging from 30 days probation to revocation of membership privileges and denial of access or presence on the show grounds of an NRHA-approved event. (Handbook, Part D § 8). Here, the Hearing Body imposed a three-month suspension of membership privileges followed by one year of probation, and a \$1,000 fine. Plaintiff has included no support for the assertion that the penalty imposed was unfair or unreasonable—to the contrary, it was well within the authority of the Hearing Body and was proportionate to the facts establishing abuse of the horse.

The timing of the penalty was also not arbitrary or capricious. The Findings and Order of the Hearing Body originally set the penalty period to begin on the date of the order: May 1, 2017. (Findings and Order). After Plaintiff submitted his notice of appeal, the penalty was abated pending the appeal to the Executive Committee. The timing of the suspension does not result in punishment that is disproportionate to the offense.

**II. There is adequate remedy at law for Plaintiff's claimed injuries.**

Injury is irreparable if it cannot be fully compensated for in damages or if the measure of damages is too speculative to result in a correct calculation. *Edwards v. Bd. of Cnty. Comm'rs of Canadian Cnty.*, 2015 OK 58, ¶ 29, 378 P.3d 54, 29. Difficulty in reaching a precise calculation, however, does not make an injury irreparable. Where, as here, the claimed injuries are loss of business reputation, loss of business prospects, and even embarrassment, those injuries ultimately “translate . . . into lost profits,” the likes of which are routinely reduced to monetary calculations in trials for money damages. *Celebrity Attractions, Inc. v. Okla. City Pub. Prop. Auth.*, 660 F. App'x 600, 603 (10th Cir. 2016) (internal quotation marks and citations omitted).

Additionally, the embarrassment or stigmatization as a “horse abuser” can be alleviated if Plaintiff ultimately prevails on the merits. Any lost business opportunities suffered in the meantime can, once again, translate into lost profits. The Petition in this case further demonstrates the adequacy of money damages. The only relief requested in the petition are “damages in excess of \$100,000 for breach of contract” and a declaration that the Association breached the contract.

**III. The threatened injury to Plaintiff absent injunctive relief does not outweigh the injury the injunction will cause the Association.**

Temporary injunctive relief is only appropriate if “the threatened injury to the moving party . . . outweigh[s] the injury the opposing party will suffer under the injunction.” *Edwards*, 2015 OK 58, ¶ 30, 378 P.3d at 63. As demonstrated above, Plaintiff will suffer no irreparable harm in the absence of an injunction, and therefore the threatened harm cannot exceed the harm that the Association will suffer under the injunction, even if the Association would suffer no harm as well. However, the Association does face harm if its ability to regulate its membership and its shows is subject to inappropriate intervention via mandatory injunctive relief.

**IV. A temporary injunction would not benefit the public interest.**

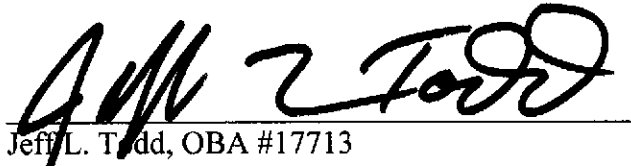
At bottom, this case involves a contract dispute between two parties. The public interest implicated in enforcing the contract’s provisions regarding disciplinary process is negligible, and would not be advanced by issuing injunctive relief where, as here, the process complied with the contract terms.

**CONCLUSION**

The need is not urgent and the right is not clear. Plaintiff filed this action after he was suspended! Plaintiff has failed to show by clear and convincing evidence that he is entitled to mandatory preliminary injunctive relief because his claims are meritless, the alleged injuries can

be remedied by damages, and injunctive relief is not warranted by an imbalance of harms or by benefit to public policy. Accordingly, the NRHA respectfully requests this Court deny Plaintiff's motion for temporary injunction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff L. Todd", written over a horizontal line.

Jeff L. Todd, OBA #17713  
Elizabeth T. Isaacs, OBA #32429  
MCAFEE & TAFT A PROFESSIONAL CORP.  
10<sup>th</sup> Floor, Two Leadership Square  
211 North Robinson Ave.  
Oklahoma City, OK 73102-7103  
Telephone: (405) 235-9621  
Facsimile: (405) 235-0439  
Jeff.Todd@mcafeetaft.com  
Andrew.Morris@mcafeetaft.com


*Attorneys for Defendant National Reining  
Horse Association*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of October, 2017, a true and correct copy of the above and foregoing was hand delivered to the following:

Kevin R. Donelson  
Socorro Adams Dooley  
Fellers, Snider, Blankenship, Bailey & Tippens  
100 N. Broadway, Suite 1700  
Oklahoma City, OK 73102

*Attorneys for Plaintiff Arno Honstetter*

  
\_\_\_\_\_  
Jeff L. Todd