

IN THE MATTER OF A DISCIPLINARY PANEL
OF ENGLAND BOXING LIMITED

BETWEEN:

ENGLAND BOXING LIMITED

Complainant

-and-

JAMES NIGEL HELLIWELL

First Respondent

-and-

TIM RICH

Second Respondent

WRITTEN REASONS FOR THE DECISION OF
THE DISCIPLINARY PANEL
FOLLOWING THE HEARING ON
21 FEBRUARY 2016

1. APPEARANCES

- 1.1 Richard Paton-Philip, Counsel appeared on behalf of England Boxing Limited, instructed by Gordon Valentine, England Boxing National Compliance Manager.
- 1.2 James Nigel Helliwell represented himself.
- 1.3 Tim Rich represented himself, supported by Graeme Beedham, acting as McKenzie Friend.

2. BACKGROUND

- 2.1 At all material times:
- (i) The Complainant, England Boxing Limited (“EB”) is the national governing body for the sport of boxing in England;
 - (ii) The First Respondent, James Nigel Helliwell (“NH”), is an EB coach and an AIBA referee; and
 - (iii) The Second Respondent, Tim Rich (“TR”), is an EB referee.
- 2.2 On the 5 December 2015, there was a boxing show organised by East Hull ABC at the East Mount Leisure Centre. The show included 11 bouts consisting of 3 skills bouts, 7 juniors and 1 senior female bout.

- 2.3 The senior female bout was the final contest of the show between Leigh Helliwell (“LH”) and Samantha Brown (“SB”). It was reported that SB was the local favourite and the bout had attracted a large crowd for the size of the venue.
- 2.4 TR was the only referee on the night and covered all 11 bouts. NH was the coach of LH and he is also her father.
- 2.5 It is reported that LH was ahead after each round, and during the last round TR had to intervene to issue a standing count to SB. At the conclusion of the bout NH was unhappy with the way in which TR intervened to issue the standing count. NH mounted the apron of the ring and called TR over. Words were exchanged between the two men and there was an accusation of punches being thrown by NH.
- 2.6 On the 9 December 2015, a case management referral meeting was held by the Yorkshire Regional Boxing Association to discuss the incident. A letter dated 10 December 2015 notified NH and TR that the meeting concluded that there was a *prima facie* case to answer and issued them with an interim sanction (suspension from all EB activity) until the completion of disciplinary proceedings.

3. PRELIMINARY MATTERS

- 3.1 NH stated in a letter dated 24 January 2016 that *“I will not be attending the disciplinary meeting scheduled for the 21 February 2016 but trust that the panel will reach the correct conclusion and bring this matter, which I believe has been blown out of all proportion, to an end.”* NH notified Gordon Valentine, the evening before the hearing that he will be attending and wished to call Mr Tommy Wilson as a witness. Although NH was in breach of Regulation 8.5 of the EB’s Disciplinary and Appeals Procedures (“the DAP”) outside the timescale for calling a witness, the Chairman allowed the witness on the basis that he had provided a statement before the hearing.
- 3.2 Counsel for EB submitted the following amendments to the bundle of documents provided to the Disciplinary Panel:
 - (i) Notice of Charge dated 30 December 2015 to NH:
 - (a) the referenced date of the incident to be amended from 2nd December 2015 to 5th December 2015 at both paragraph 1 and 2 of the Charges section.
 - (ii) Notice of Charge dated 30 December 2015 to TR:
 - (a) the referenced date of the incident to be amended from 2nd December 2015 to 5th December 2015 at paragraph 1 of the Charges section.
 - (b) the word ‘in’ to be inserted after “referee” and before “that” on line 2 of the Charges section, to read:

“That you did on 5th December 2015 at Eastmount Community Centre, failed in your duty as an EB referee in that whilst acting as such you became involved in an aggressive confrontation with a Coach, Mr Nigel Helliwell contrary to the England Boxing Codes of Conduct.”

The Disciplinary Panel agreed to all the submitted amendments at paragraph 2.2.

- 3.3 NH and TR were notified of the names including occupation of the Disciplinary Panel in the Notice of Hearing dated 18 January 2016. They were asked to submit any objections to the Disciplinary Panel within 7 days. No objections were received. Nevertheless, the Chairman asked both NH and TR individually before commencing the hearing if they had any objections to the composition of the panel members. Both NH and TR confirmed that they did not have any objection.

4. THE CHARGES

- 4.1 By a Notice of Charge, dated 30 December 2015, EB charged NH with being in breach of the England Boxing Codes of Conduct as follows:

- (1) *you did use violence against Tim Rich whilst he was acting in his capacity as a referee;*
- (2) *bringing the sport into disrepute, that you became involved in an aggressive confrontation with Mr Tim Rich whilst in your capacity as a Coach.*

- 4.2 By a Notice of Charge, dated 30 December 2015, EB charged TR with being in breach of the England Boxing Codes of Conduct as follows:

- (1) *you failed in your duty as an EB referee in that whilst acting as such you became involved in an aggressive confrontation with a Coach, Mr Nigel Helliwell.*

- 4.3 Regulation 2 of the DAP provides EB with jurisdiction to bring the charges set out above. EB bears the burden of proving its case to the civil standard of proof, namely the balance of probabilities, as set out in Regulation 11.3 of the DAP.

5. NH'S DEFENCE

- 5.1 NH denied both charges brought against him. He submitted statements to support his position before the hearing. When asked by the chairman to accept or deny the charges at the outset of the hearing NH refused to accept or deny and merely stated that an incident did occur on the 5 December 2015. Counsel for EB had to further probe NH into acknowledging the charges and the question submitted by the Chairman. He finally denied using violence but accepted engaging in exchange of words with TR, but denied that he was aggressive. He accepted that his actions had brought the sport into disrepute.

- 5.2 NH's response to the charge may be summarised as:

- (i) He has a naturally loud voice that people may confuse as being aggressive;
- (ii) TR grabbed hold of LH in an inappropriate manner in breach of AIBA rules;

- (iii) TR confronted NH and in a very angry manner stated “*you think you’re something special because you’re an AIBA referee, your nothing, you’re a nobody*”. NH felt threatened and he lashed out but did not make contact;
- (iv) The incident happened in the heat of the moment;
- (v) The witnesses who provided statements should be discredited as none of them are in a position to give a true account;
- (vi) Judges Steve Hadley and Dean Ingle do not have enough judging experience to conclude that TR acted within the AIBA rules when intervening during the bout to issue a standing count.

6. TR’S DEFENCE

- 6.1 TR denied the charge against him and further denied the charge when asked by the Chairman at the outset of the hearing.
- 6.2 TR’s response to the charge may be summarised as:
 - (i) TR shouted “Stop” three times before intervening between the boxers, to protect the boxer receiving further punishment.
 - (ii) TR repeatedly told NH to “go away” and reminded him that he was the referee in charge. NH ignored all requests.
 - (iii) Richard Cawthorne should have intervened before the incident escalated.
 - (iv) TR maintained that he was the victim, and as the referee NH should have listened to him when he was asked to leave.

7. EVIDENCE AT THE HEARING

- 7.1 The Disciplinary Panel considered the following evidence:
 - (i) A video was played, which showed the final round of the bout between LH and SB. The Disciplinary Panel were able to see the intervention of TR to give the standing count to SB. The video cut out shortly after the final bell, however NH is seen to mount the apron of the ring and call TR over using a hand gesture. The video had limited benefit as it did not show the incident in any detail.
 - (ii) The Disciplinary Panel heard from the following witnesses:
 - (a) Richard Cawthorne;
 - (b) Tracy Cawthorne;
 - (c) Dean Ingle;
 - (d) Steve Hadley;
 - (e) Tommy Wilson;
 - (f) NH;

- (g) TR;
- (iii) Prior to the hearing the Disciplinary Panel had the opportunity to review a bundle of documents which included written statements from the above persons mentioned at Paragraph 7.1 (ii), and the following additional documents and witness statements:
 - (a) Yorkshire Regional Boxing Association (“YRBA”), “case management referral” meeting dated 9 December 2015;
 - (b) Letters to NH and TR from YRBA dated 10 December 2015;
 - (c) EB Supervisor Report of boxing show dated 5 December 2015;
 - (d) Witness statement of LH;
 - (e) Email statement from Sean Ross dated 15 December 2015;
 - (f) Witness statement of Lawson;
 - (g) Witness statement of Frank Lazenby;
 - (h) Witness statement of Kirsty Thorpe; and
 - (i) Witness statement of Andy Barraclough;

8. FINDINGS AND DECISION OF THE DISCIPLINARY PANEL

Nigel Helliwell

- 8.1 The Notice of Charge alleges two breaches of the EB Code of Conduct, whether NH intended the consequences set out in the Notice is only relevant to the question of sanction.
- 8.2 NH maintained that he did not use violence against TR, but accepted that he lashed out. NH could not say whether it was a punch (closed or open fisted) referring his actions to “*whatever it was*” and accepted that he “*lashed out*”. The Disciplinary Panel were dumbfounded to hear that NH denied the use of violence, defining violence as an action that has to cause physical harm. He stated that as he did not make contact with TR, it was not violence but instead could be termed as “*aggressive action*”.
- 8.3 The Oxford English Dictionary defines “*Violence*” as “*behaviour involving physical force intended to hurt, damage, or kill someone or something*”.
- 8.4 The Disciplinary Panel find that “*lashing out*” fulfils the dictionary definition of violence. As a result the charge against NH is proved, without any further consideration as to whether or not NH made contact when “*lashing out*”. The Disciplinary Panel were of the view that NH intended to “*lash out*” and was in full control of his actions.
- 8.5 The Disciplinary Panel heard from Tommy Wilson, who alleged that NH did not throw any punches towards TR, but it was in fact TR who threw 3 or 4 punches. Tommy Wilson alleged that one of the punches hit him above the right eye. Despite the Disciplinary Panel informing Tommy Wilson that NH had already admitted to lashing out, he maintained that he did not see NH throw a punch only that he “*pulled back*” and described the action as a “*half and half*” when asked by the Disciplinary Panel if it was a punch.

- 8.6 The Disciplinary Panel found Steven Hadley to be credible and forthright under questioning. He was seated the closest to the incident and stated that NH, with his right hand made contact with TR's chin. He stated that he did not recall TR reacting by throwing punches that connected with Tommy Wilson.
- 8.7 NH denied the use of aggressive behaviour and maintained that he had a "*naturally loud voice*" that people could interpret to be aggressive. The Disciplinary Panel observed NH's demeanor throughout the hearing, which was extremely defensive and at times aggressive. NH questioned the witnesses in a challenging manner and was asked by the Chairman several times to calm down and ask appropriate questions.
- 8.8 The Disciplinary Panel found that NH did not raise any adequate points of defence to nullify the charges against him.
- 8.9 TR did not produce any medical evidence to demonstrate that any injury had been inflicted although he did show one of the Panel members his alleged broken tooth during the course of the hearing. When questioned about his reporting to the police, he could not say who he spoke to or provide a crime reference number. The evidence before the panel is not clear whether NH made contact and or caused injury to TR when he "*lashed out*".
- 8.10 The Disciplinary Panel accept that as the father of LH, NH may have let his emotions get the better of him. It is not for this panel to determine whether or not the referee's intervention was appropriate according to the AIBA rules, however it is no excuse for NH to act in the way he did.
- 8.11 Furthermore, the questioning of Steven Hadley and Dean Ingle's experience as judges was found by the Disciplinary Panel's opinion to be a redundant point made by NH and did not provide any defence to his actions.
- 8.12 NH stated that he regretted what happened and accepted with hindsight that "*lashing out*" was wrong. The Disciplinary Panel felt that NH expressed remorse for the incident, however he did say that "*this has been blown out of proportion and should have been dealt with differently*". This demonstrated that NH showed a lack of appreciation for the severity of his actions and the procedures governing EB.
- 8.13 Referees should be able to act in their roles without fear of violence, abuse or harassment, be it verbally or physically. NH ought to appreciate this as he too is an EB coach and an AIBA referee.
- 8.14 It is conclusively found that NH did engage in an aggressive confrontation with TR. The confrontation led NH to "*lash out*". Whether he physically harmed TR in lashing out is not entirely certain. Given the Disciplinary Panel are of the view that the First Charge is proved, we are also satisfied that NH has brought the sport into disrepute, having become involved in an aggressive confrontation with TR and the Second Charge is also proved.

Tim Rich

- 8.15 The Notice of Charge alleges two breaches of the EB Code of Conduct, whether NH intended the consequences set out in the Notice is only relevant to the question of sanction.
- 8.16 It was clear from the evidence that TR approached the corner at the conclusion of the bout, after being signaled to by NH. From the evidence presented at the hearing the Disciplinary found that TR walked away from NH, and then returned after NH continued to, in TR's own words "*bellow*" him over.
- 8.17 It is clear from the evidence TR had a decision to make after walking away the first time. He could either have ignored NH and reported him to the supervisor or return to the corner and engage with NH.
- 8.18 TR maintained that as he was the referee NH should have complied with his requests to "go away". He felt that his decision to return to NH's corner was the only option available.
- 8.19 The Disciplinary Panel agreed with the evidence given by Richard Cawthorne that the predicament which TR found himself in this case was entirely avoidable and wholly unnecessary. He ought to have ignored NH or requested the assistance of the supervisor.
- 8.20 TR gave a good account of his extensive experience as a referee. He said that he had told coaches to "*go away*" before and this was the first time anyone had challenged this sort of request.
- 8.21 He acknowledged in the past that he has asked the supervisor to step in and assist him before with similar issues. He maintained under questioning that the supervisor "*should have*" interjected from the outset. He could not inform the Disciplinary Panel with hindsight what he should have done differently.
- 8.22 Although the Disciplinary Panel accepts the supervisor could have interjected, TR failed to remain in his professional capacity as a referee by engaging in the confrontation with NH. The fact that the confrontation led NH to lash out at him, and supported by a number of witnesses, it was clear on the balance of probabilities TR engaged in an aggressive confrontation with NH. By becoming engaged in the way TR did, he abandoned his duties as a referee and acted against the interests of the sport. The Disciplinary Panel were satisfied that the charge was proved on the basis that TR had engaged in an aggressive verbal (but not physical) confrontation with NH.

9. ORDER

- 9.1 In view of the findings, the Disciplinary Panel makes the following Order:
- (i) the charges against NH are proved; and
 - (ii) the charge against TR is proved.

9.2 NH and TR are invited to submit a plea in mitigation in writing within 7 days of receipt of this judgment in relation to sanction for consideration by the Disciplinary Panel.

9.3 The Disciplinary Panel shall issue the sanction to NH or TR, within 7 days of receiving their respective pleas. Where no plea is submitted within 7 days, the Disciplinary shall issue the sanctions within 7 days thereafter.

10. SANCTIONS

10.1 Upon receipt of the plea in mitigation or following the 7 day deadline stipulated in Paragraph 9.2, the Disciplinary Panel may impose any of the following sanctions, as set out in Regulation 13.1 of the DAP:

1. *Sanctions may include but shall not be limited to:*

13.1.1 *a written warning;*

13.1.2 *a requirement to change current practices;*

13.1.3 *. . .;*

13.1.4 *a suspension [or expulsion] from ABAE [registration, membership or affiliation] or from any and all other activities under the jurisdiction of the ABAE [including, in particular, attending meetings, coaching, competing or officiating at events] which may include suspension from a specified number of events or for a period of time;*

13.1.5 *a financial penalty;*

13.1.6 *a requirement to participate in re-training; or*

13.1.7 *any other appropriate sanction which may be levied from time to time.*

10.2 The limitations on the sanctions that may be imposed by a National Discipline Panel under Regulation 13.7 are:

- (i) suspension and/or expulsions of up to and including 5 years; and
- (ii) a fine of up to £5,000.

10.3 Regulation 14, sets out the discretion of the Chairman of the Disciplinary Hearing to impose an order for the costs of the hearing to be paid, in such proportion as he may decide, by any of the parties of the hearing.

10.4 It is noted that NH and TR have been serving an Interim Sanction since 10 December 2015.

11. RIGHT OF APPEAL

11.1 Upon receipt of the sanction issued by the Disciplinary Panel, the respondents shall have the right to appeal against the decision under Regulation 16 of the DAP. The time for the appeal shall be detailed in the sanction notice.

3 March 2016

Ryan Adams, Trainee Solicitor, Chairman of the Disciplinary Panel

Stuart Tenant, Solicitor, Independent Member of the Disciplinary Panel

Steven Osbalderson MBE, EB Regional Welfare Officer, Member of the Disciplinary Panel