

CASE 5-08 – HF STEYN VS L VAN NIEKERK – HEARING 4.4.2009

The DSC found the Defendant, Mrs L van Niekerk, guilty in terms of Rules 2.1, 2.2.1 and Rule 2.2.3 of Schedule 1 of conduct with regard to the transfer of a dog to the Complainant.

The DSC imposed the following penalties:

- (a) In terms of the provisions of Rule 8.2 the Defendant is suspended from taking part in or having any connection with or attending any Show, Obedience Classes, Working Trials or Field Trials or other event held under KUSA license or from acting as an officer of any Club for a period of two (2) years (twenty-four months); and
- (b) In terms of the provisions of Rule 8.3 the Defendant is disqualified from exhibition or competition of all dogs owned by her or registered or recorded in the name/s of a nominee/s for a period of 2 (two) years (twenty four months), and
- (c) In terms of the provisions of Rule 8.5 the Defendant is disqualified from judging at or taking part in the management of a Show, Obedience Classes, Working Trials or Field Trials or other event held under a KUSA license for a period of 2 (two) years (twenty-four months).

In accordance with the provisions of Rule 8.9 of Schedule 1, the DSC deemed it fit to suspend the second year of the penalty as reflected in (a), (b) and (c), for a period of 5 (five years), on condition that the Defendant is not found guilty by a DSC of KUSA for the contravention of any act or conduct as provided for in Rule 2 of Schedule 1 of the KUSA Constitution or any other provisions contained in the KUSA Constitution, Rules and Regulations that would form the basis for a valid complaint in terms thereof during the period of suspension. The conditions of suspension are only applicable to conduct, acts or omissions by the Defendant arising out of actions committed after the 4 April 2009. Any acts, omissions or conduct by the Defendant resulting in a finding of guilty by a DSC of KUSA that occurred before the 4 April 2009, may not form the grounds to evoke or give effect to this penalty due to the contravention of the conditions for suspension.

This penalty will come into effect on 1 May 2009 and will remain in effect until 30 April 2010 for the first year and the second year that has been suspended in full will come into effect on 1 May 2010 and the conditions of suspension will remain in force until 30 April 2015.

Appeal

The Appeals Committee met on 8.5.2008 and after careful consideration of all the documentation, including the notice of appeal, upheld the finding of the DSC that the Defendant is guilty of conduct which falls within the provisions of Rules 2.1, 2.2.1 and 2.2.3 of Schedule 1 of the KUSA Constitution in connection with the transfer of the dog concerned.

The Appeals Committee upheld the penalties imposed by the DSC with the only variation being that the effective date is to be 1st July 2009.

Accordingly the above penalty will come into effect on 1 July 2009 and will remain in effect until 30 June 2010 for the first year and the second year that has been

suspended in full will come into effect on 1 July 2010 and the conditions of suspension will remain in force until 30 June 2015.