RUGBY FOOTBALL UNION DISCIPLINARY HEARING

Judgment

At: Holiday Inn, Brighouse, West Yorkshire

On: Monday, 9th March 2009

Player: LUKE ABRAHAM Club: Sale Sharks

Match: Saracens v Sale Sharks

Venue: Vicarage Road, Watford

Date of Match: 1st March 2009

Panel: Antony Davies (Chairman), Peter Rhodes and Derek Morgan

Secretariat: Bruce Reece-Russel (RFU Disciplinary Manager)

Attending: Luke Abraham ("the Player")

Kingsley Jones (Sale Sharks Coach)

James Jennings (Sale Sharks Chief Executive Officer)

Peter Larter (Citing Officer)

Preliminary Matters

1. The Player did not object to the composition of the Panel.

Charge and Plea

- 2. The Player admitted the two charges of striking an opponent during the 39th and 59th minutes of the above match, both offences being contrary to Law 10(4)(a).
- 3. The charges followed the receipt of a citing report compiled by the nominated Citing Officer, Peter Larter.
- 4. The Chairman explained that the Panel would investigate the nature and seriousness of each of the two incidents and characterise them accordingly. It would then decide whether to deal with the matters separately by way of consecutive sentences or together determining the appropriate sentence for the more serious offence and considering whether or not the less serious offence could be an aggravating feature, in

which case the sentences may run concurrently.

The Facts – First Incident

5. We considered the Citing Officer's written report, the pertinent points of which can be summarised as follows:

"Saracens were attacking and a ruck was formed about 12 metres from the Sale goal line just at the right of the posts. The Referee blew his whistle and awarded a penalty to Saracens because a Sale player had driven over the top of the ruck. To the Referee's left the Saracens number 5 (Hugh Vyvyan) and Sale number 7 (Luke Abraham) were entangled on the floor as the ruck was breaking up. Luke Abraham was trying to get to his feet and appeared to be slightly impeded by Hugh Vyvyan. Abraham then turned towards Vyvyan and struck him with his head; contact was made to the right side of Vyvyan's head. Just after the contact, the Referee turned towards the two players and saw them wrestling on the ground. Other players then became involved, but this amounted to not much more than a lot of pushing and shoving. The Referee then blew his whistle and called Abraham and Vyvyan towards him and gave them a warning. There was no apparent injury to Vyvyan who played on for the remainder of the match. The Referee took no action as he was facing away from the incident. He had not seen anything prior to Abraham and Vyvyan wrestling. He also stated that neither of the Touch Judges had reported the incident to him."

- 6. The Citing Officer expanded upon his written citing report by reference to a DVD of the incident, both in real time and slow motion, explaining why he regarded it as a serious offence and one of foul play contrary to Law 10(4)(a).
- 7. The Panel concluded that the citing was properly brought.

The Facts – Second Incident

8. We considered the Citing Officer's written report, the pertinent points of which can be summarised as follows:

"On about 59 minutes of the DVD Saracens were attacking and a ruck was

formed about 20 metres from the Sale goal line to the left of the posts. As the ball was coming out of the ruck the Saracens number 9 (Justin Marshall) was standing over the ball. The Saracens number 8 was about to pick up the ball from between Marshall's legs and as he did so the Sale number 7 (Luke Abraham) launched himself head first over the ruck and struck Justin Marshall on the left side of his jaw with his head. Marshall held his head and looked at the Referee, who appeared not to have seen the contact. Marshall did not appear to suffer any injury and played on until the 76th minute when he was replaced.

The Referee took no action as he was looking away from the incident, and stated that he had not seen Abraham dive over the ruck and strike Marshll with his head. He also said that neither of the Touch Judges had reported the incident to him."

- 9. The Citing Officer expanded upon his written citing report by reference to a DVD of the incident, both in real time and slow motion.
- 10. The Panel concluded that the second citing was also properly brought.

The Player's Case – First Incident

- 11. The Player accepted the description of the incident and the contact contained within the Citing Officer's report and described by reference to the DVD. He was the first Sale player to the tackle situation before it became a ruck and had reached over the ball carrier on the ground in an attempt to secure (what he thought was legitimately) the ball. He was on his feet. The Referee then blew to penalise him. He did not agree that a ruck had been formed and looked at the Referee and started to argue his case. He did not react to anything that was going on at this stage.
- 12. The Player described, by reference to the DVD, how, when he was trying to disengage from the ruck, that his hair was pulled. He has it in a ponytail at the back. He started to try and get up to continue his discussion with the Referee. As he was trying to do so and disentangle himself from the body of the player he was lying on, he was pulled back onto that player's body by the player who had his left arm round his

chest and his other hand pulling his ponytail on the back of his head. He reacted instantaneously to this by head- butting the player once to the top of his head. The distance between their respective heads when he started the strike was some 18 inches.

13. The Player accepted that he lost his composure and acted in an unacceptable way, but maintained it was a split second loss of composure which occurred whilst he was being prevented from getting up and disengaging from the situation.

The Player's Case - Second Incident

- 14. The Player described his intentions in driving over the top of the ruck which had formed in front of him. He described how he is coached to counter-ruck. He saw Mr. Marshall standing over the ball in an erect and upright stance. The ball was between Mr. Marshall's legs. His centre of gravity was high and it was to him the perfect opportunity for counter-rucking. He did not know at that stage whether Saracens 8, who was bending over the ball, was going to pick and drive or release it from the ruck. He could not go round the side of the ruck without being penalised and realised that he had to come through the gate by stepping over the bodies in front of him.
- 15. As he drove over the bodies in front of him, he made contact with his head into the side of Mr. Marshall's head, making contact with the left side of his jaw. He accepted that it was a clumsy and reckless challenge but with no intention of causing injury and no malice in what he did. It was essentially a legitimate counter-rucking attempt to get under the player and drive him back. He worked hard to stay on his feet and the contact with the head had been entirely unintended.
- 16. Mr. Jones confirmed how he coached his players to counter-ruck whilst accepting that what his player had done on this occasion was reckless and dangerous. It was also tactically an inept decision because the ruck was lost and there were too many bodies between the Player and the ball. The Player had been wrong to involve himself because the ball was subsequently won by Saracens, who went on to score a try, contributed to significantly by the Player's absence from the defensive line at that point.
- 17. Mr. Jones and the Player drew our attention to an incident at a previous ruck

some 12 seconds beforehand when the Player had carried out an almost identical counter-rucking procedure. On that occasion, he had gone lower in making contact because there were fewer bodies in front of him and had carried out a perfectly legitimate and safe counter-ruck. Comparison was made of his body position and actions in both incidents.

The Club's Position

18. Mr. Jones and Mr. Jennings clarified the Club's position. The Player was regarded as having great potential but they were extremely disappointed and concerned about his disciplinary record of late. He had had an exemplary record until 20th December, when he had been cited for striking with the head. That matter had been dealt with by this Panel on 5th January 2009 and the Player received a period of suspension of three weeks. The Player was being given an extended run and had played the last three games prior to the citing. He will now be fortunate to get back into the team, which will have very significant financial consequences for him because he will not achieve the number of games required this season to trigger a salary increase in the next year of his contract. The Club had reviewed his position in the light of the two incidents in the one game, and steps were being taken within the Club to address that matter. Immediately the citing had been received, the Club had suspended him pending the hearing.

Entry Point and Sanction

First Incident

19. The Panel characterised this as being an intentional strike with the head, making contact once with the top of the head/scrum cap, albeit subject to some provocation. However, the victim was lying on the ground on his back, with the Player on top of him and, to the extent that he could offer no defence at the moment of impact, was vulnerable. Some pushing and shoving followed the incident and it was completed. Whilst there was no injury sustained at all, and evidence of some provocation, it was nonetheless too serious a matter to warrant a low entry point and the Panel characterised this as a mid range with a starting point of eight weeks.

Second Incident

- 20. The Panel accepted that the Player was not targeting his opponent and that there was no malice in what he did. It was a case of a reckless challenge, originating in an action which had a rugby purpose but badly executed. The Panel gave the Player the benefit of the doubt in this regard on the basis that he had first made contact with Mr. Marshall with his right arm which was in advance of his head. His left arm was out to the side ready to break his fall as he went to ground after making contact. His body position was almost identical in the incident some seconds beforehand, which had been perfectly legitimate.
- 21. Having considered the nature and seriousness of both incidents, we address the issue of whether the second incident should be the subject of a separate and consecutive penalty, or whether it should properly be regarded as an aggravating feature of the first. We take the latter view, for the reason that between 20th December 2008 and 1st March 2009, the Player has used his head as a weapon deliberately on two occasions (though following significant provocation) and recklessly on one. He has been cited for two incidents in the same match. The Player must address what may seem objectively like a pattern of offending and we therefore think it right that the second incident in the game and the third in some ten weeks should be an aggravating factor.
- 22. Starting with an entry point of eight weeks for the first incident, we add four weeks on account of the aggravating feature mentioned above, making a total of twelve weeks. The Player deserves a reduction from this point on account of his guilty pleas and the way he has presented himself and his case before the Panel, and accordingly the appropriate period of reduction is one of four weeks.

Sanction

23. The Player is suspended from 4th March 2009 until 28th April 2009 inclusive. He may play again on 29th April 2009.

Costs

24. The Player will pay the costs of £250.00.

Right of Appeal

25. The Player was reminded of his right of appeal against this decision as set out in the Disciplinary Regulations.

Antony Davies

Antony Davies,

Chairman

10th March 2009