



Via electronic mail

July 8, 2011

Anne-Marie Eileraas, CEO
Women's Professional Soccer
1750 Montgomery Street, 1st Floor
San Francisco, CA 94111
ame@womensprosoccer.com

Re: Grievance Based Upon Actions of WPS Franchise Owner Dan Borislow

Dear Ms. Eileraas:

The Women's Professional Soccer Players Union (WPSPU) is the exclusive, certified union representing players in Women's Professional Soccer (WPS). Pursuant to Section 7 of the WPS Player Handbook and Policy 202(1(H-1)) of the US Soccer Federation Policy Manual, the WPSPU initiates this grievance based upon disputes between the players and Dan Borislow, in his capacity as franchise owner and acting coach for magicJack SC.

I. Violations of Standard Player Contract Provisions

Dan Borislow has violated his concomitant obligations under the WPS Standard Player Contract. Article III, Section 3.1(b)(ii) of the contract states as follows:

At all times during the Term, Player shall:

*...
conduct herself, both on and off the field, according to the highest standards of honesty, morality, fair-play and sportsmanship and in a manner befitting her position as a representative and promoter of the League, Team and the sport of soccer[.]*

Owner Borislow, acting as coach, has failed to comply with the contract's equal and reciprocal duties to conduct himself with the highest standards of honesty, morality, fair-play, and sportsmanship.

Article IX, Section 9.4 of the contract makes clear that the league has the discretion to discipline players who violate the above principles:

... Player specifically acknowledges that she shall be subject to discipline by Team and/or WPS which may include, but shall not be limited to, fines, suspensions without pay, termination of this Agreement and/or permanent expulsion from WPS if:

*...
(e) she makes statements or engages in conduct that, in the sole discretion of the Commissioner, is detrimental to the best interests of Team, WPS or the sport of soccer.*

WPS likewise has a reciprocal absolute discretion to institute penalties for league owners and coaches whose actions run counter to the best interests of the team, league, or sport.

Testimony from current and former magicJack players to WPSPU representatives, coupled with the text of several e-mails sent to players (attached), demonstrate Borislow's propensity to violate provisions of the Standard Player Contract by acting in a manner that is unsportsmanlike and that undermines the interests of the league. WPS thus has sole discretion to penalize him accordingly.

II. Violations of the FIFA Code of Ethics

The FIFA Code of Ethics, as adopted by the US Soccer Federation, applies to all FIFA and league "officials" (the definition for which includes coaches and administrative personnel). Section 3 of the Code requires officials to support and further the principles and objectives of their league and "represent them honestly, worthily, respectably and with integrity." Section 2 goes on to require them to "show commitment to an ethical attitude while performing their duties. They shall pledge to behave in a dignified manner. They shall behave and act with complete credibility and integrity." In the event these rules are violated, FIFA sets forth guidelines for dismissal in Section 4.3:

Officials who do not comply with this Code or severely fail to fulfil[l], or inadequately exercise, their duties and responsibilities, particularly in financial matters, are no longer eligible and shall be removed from office.

Attached emails show Borislow's clear failure to behave in a dignified manner. They also demonstrate his practice of bullying and threatening players, and his creation of a hostile, oppressive, and intimidating work environment which adversely affects players' ability perform. All of these behaviors violate the FIFA Code of Ethics and trigger the removal provisions of Section 4.

III. Violations of WPS Media Policy

In addition to the violations enumerated above, emails to players dated May 5, 2011 and June 26, 2011 (Attachments 1 and 8, respectively) demonstrate that owner Borislow is in violation of the league's media access policy, which requires teams to be available to the press and encourages players to make use of social media, such as Twitter (*e.g.*, the WPS Social Media Handbook, available: <http://www.womensprosoccer.com/Home/connect/wps-social-media->

handbook.aspx). The first email describes Borislow's arbitrary restrictions on outside media access to the team and the second email outlines his recent ban on player use of Twitter.

Both practices violate the league's policy of open media access and player accessibility to press and fans. Furthermore, not only are players restricted from using the platform, but Borislow threatens players who violate the policy with termination and nonpayment. This indicates his willingness and readiness to breach his salary payment obligations without acceptable cause.

IV. Violation of U.S. Soccer Federation Coaching Requirements

The US Soccer Federation requires WPS team coaches to hold a USSF "A" license within two years of their appointment. Coaching requirements and prerequisites from US Soccer are listed in part below:

- *"A" License: Candidates must be 21 years old and have earned a National "B" License (held for minimum of 12 months) and meets 3.2 Rule requirement*
- *"B" License: Candidates must be 19 years old and have earned a National "C" License (held for minimum of 12 months) or have received the NSCAA Advanced National Diploma (held for minimum of 12 months)*
- *"C" License: Candidates must be 18 years old and have earned a National "D" License held for a minimum of 12 months or have received the NSCAA National Diploma (held for minimum of 12 months)*
- *Youth License: Candidates must be 18 years old and hold "D" License or have the approval of the State Director of Coaching to attend*

Can I be waived into the "C" or "B" License with professional playing experience?

Applicants with three (3) years of coaching experience (any level) AND three (3) years playing experience with a Senior National Team or three (3) years of FIFA recognized "1st Division" professional playing experience may be waived into the National "C" License. Applicants with five (5) years coaching experience (any level) AND five (5) years playing experience with a Senior National Team or five (5) years of FIFA recognized "1st Division" professional playing experience may be waived into the National "B" License. Documentation of both professional playing experience and coaching experience is required.

Borislow, acting as magicJack coach, does not have an "A" license and is not on track to secure one within the next two years. In fact, it is per se impossible for him to have an "A" license within the mandated time frame, making him noncompliant with the text and spirit of the rule. As WPS is subject to US Soccer rules and regulations regarding coaches, the WPS must remove Borislow from coaching duties or put its partnership with US Soccer at risk.

V. Remedy Sought

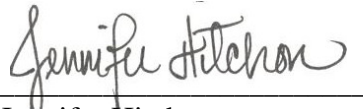
As a remedy, the WPSPU demands that noncompliant behavior be halted, and that the owner and acting coach in question be removed from all coaching and administrative capacities for the remainder of the year.

The WPSPU also asks WPS to draft and adopt a Code of Conduct applicable to all team coaches, staff, and officials that is specific to the league than FIFA's more general Code of Ethics. As a model, WPS may wish to look to the English Football Association's Code of Conduct (available online or upon request).

VI. Player Protection from Retaliation

Finally, the WPSU also expects the league owners and front office staff to protect players from any retaliatory action that may be taken by owner Dan Borislow as a direct result of this grievance.

Respectfully submitted,



Jennifer Hitchon
Executive Director
Women's Professional Soccer Players Union

Attachments 1-8, encl.