



DECISION of the FEI TRIBUNAL

dated 29 July 2008

Positive Medication Case No.: 2008/03

Horse: LITTLE JOE FOX

FEI Passport No: NZL00537

Person Responsible: Mr Khalifa Ghanim Al Marri, UAE

Event: CEIYJ 3* 120 Km, Boudthib, UAE, 09.02.2008

Prohibited Substance:

Triamcinolone Acetonide

1. COMPOSITION OF PANEL

Mr Patrick A. Boelens, Chairman
Prof. Dr. Jens Adolphsen
Mr Philip O'Connor

2. SUMMARY OF THE FACTS

2.1 Memorandum of case: By Legal Department.

2.2 Summary information provided by Person Responsible (PR): The FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file, as also made available by and to the PR.

2.3 Oral hearing: None: by correspondence.

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

3.1 Articles of the Statutes/ Regulations which are applicable or have been infringed:

Statutes 22nd edition, effective 15 April 2007, ("**Statutes**"), Arts. 1.4, 34 and 37.

General Regulations, 22nd edition, effective 1 June 2007, Arts. 142, 146.1 and 174 ("**GR**").

Internal Regulations of the FEI Tribunal, effective 15 April 2007.

The Equine Anti-Doping and Medication Rules ("**EADMCRs**"), effective 1 June 2006.

Veterinary Regulations ("**VR**"), 10th edition, effective 1st June 2006, Art. 1013 and Annex III (the Equine Prohibited List).

FEI Code of Conduct for the Welfare of the Horse.

3.2 Persons Responsible: Mr Khalifa Ghanim Al Marri

3.3 Justification for sanction:

GR Art. 146.1: "The use of any substance or method that has the potential to harm the horse or to enhance its performance is forbidden. The precise rules concerning Prohibited Substances and Medication Control are laid down in the EADMCRs."

EADMCRs Art. 2.1.1: "It is each Person Responsible's personal duty to ensure that no Prohibited Substance is present in his or her Horse's body during an Event. Persons Responsible are responsible for any Prohibited Substance found to be present in their Horse's bodily Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Person Responsible's part be demonstrated in order to establish an anti-doping rule or medication control violation under Article 2.1."

4. DECISION

4.1 Consideration of the evidence:

- a. LITTLE JOE FOX (the "**Horse**") participated in CEIYJ 3* Bouthib in the UAE on 9 February 2008 (the "**Event**"). The Horse was ridden by Mr Khalifa Ghanim Al Marri who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 9 February 2008. Analysis of the blood sample no. FEI-0057082 taken from the Horse performed by the approved laboratory of the FEI, the Hong Kong Jockey Club ("**HKJC**"), in Hong Kong, under the supervision of Dr Jenny KY Wong and Dr Terence S M Wan, revealed the presence of Triamcinolone Acetonide (Test Report 0057082 dated 25 February 2008).
- c. On 31 March 2008, the PR, through his lawyer Mr Jeremy Key, waived his right to a confirmatory analysis.
- d. Triamcinolone Acetonide is a corticosteroid, having an anti-inflammatory effect (Veterinary Department's Statement dated 3 March 2008) and accordingly is a substance

classified in the second section of the Equine Prohibited List (VR Annex III) as "Medication Class A" Prohibited Substance.

- e. The FEI Tribunal is satisfied that the laboratory report reflects that the tests were accurately performed in an acceptable method and that the findings of HKJC are accurate. The FEI Tribunal is satisfied that the test results show the presence of the Prohibited Substance. The PR did not contest the accuracy of the testing methods or the test results and positive findings. The FEI has thus sufficiently proven the objective elements of a doping offence in accordance with EADMCRs Article 3.
- f. The establishment of the objective elements of a doping offence creates the presumption of guilt of the PR. The finding on analysis of a prohibited substance is presumed to be a deliberate attempt of the PR to affect the performance of the horse. The PR has the opportunity to seek to eliminate or reduce the otherwise applicable period of ineligibility and other sanctions, establishing that he bears no fault and no negligence or no significant fault and no significant negligence, in accordance with EADMCRs Article 10.5.
- g. In December 2006, the Horse had tested positive to Boldenone. The competitor being a minor, and therefore not the PR under the then applicable rules, had been suspended for one month, whereas the PR, being the foreman of the FAZAA stables, had been suspended for three months and a CHF 2'500.- fine. The positive test results to Triamcinolone Acetonide constitutes therefore a second offence related to the same Horse.
- h. In his written explanation dated 9 April 2008, the PR states that he was 14 years old at the time of the Event, that he is a student and that one of his main hobbies is endurance racing. He explains that he rode the Horse for the first time 20 minutes before the start of the race and that, at the time of the race, he had no knowledge of the Horse's medical history or of the first offence committed in December 2006.
- i. In his written explanation dated 1 April 2008, Dr Mohamed Ali Mohamed Moussa explained that he is the Senior Veterinarian at FAZAA Endurance Stables ("**Stables**"), being responsible for the health and overall wellbeing of approximately 60 endurance horses including Little Joe Fox. He states that, following a routine examination of the Horse on 18 January 2008, he "*determined that he had developed a swelling around his superficial digital flexor tendon causing him II/V LF lameness*". He discussed the need of medication with the management of the Stables and was advised that

the Horse was to be entered for the President's Cup.

- j. Dr Moussa explained that there had been a misunderstanding between the management who was in fact mentioning the Junior President's Cup which was to be held on 9 February 2008 and not the President's Cup which was to be held on 16 February 2008, as he understood.
- k. On 19 January 2008, Dr Moussa "*administered 18 milligrams of Triamcinolone Acetamide intramuscular S.I.D. only once to reduce the swelling, abolish the lameness and improve the horse's general well-being.*" He added that, had he known the Horse was to compete on 9 February 2008, he would have advised as to its ability to compete.
- l. Dr Frits Sluyter, Head of the FEI Veterinary Department, testified in his statement dated 11 April 2008 that the treatment reported by the PR is in accordance with the test result. He specified that "*The detection of Triamcinolone in a sample taken on Feb 09 is longer than the FEI recommended detection time for this substance; however, the dosage was higher than listed in the Medicine Box (18 instead of 12 mg) and the substance was administered intra-muscularly instead of intra-articularly. For Triamcinolone, it is known that i.m. administration can result in prolonged detection times*".
- m. Dr Moussa specified in his second statement dated 7 May 2008 that he had injected Vetalog, containing Triamcinolone Acetonide, intra-muscularly instead of intra-articularly because of the Horse's tendon problems. He added that "*the pamphlet from the manufacturer [...] states that where the medication is administered intra-muscular or subcutaneous, then the usual dosage range is minimum 12 mg to maximum 20 mg.*" Answering to the FEI questions, Dr Moussa also stated that the PR had not made inquiries in regard to the treatment of the Horse but that his representative, the father of the PR, did on 18 January 2008. This is confirmed by the PR's statement dated 7 May 2008 and by Mr Ghanim Al Marri, father of the PR, statement dated 7 May 2008.
- n. According to the case file, Little Joe Fox is 15 years old and considered as an ageing horse that needs to be monitored and medicated when necessary, according to the statement of Dr.Moussa. The Tribunal therefore raises the question if Little Joe Fox is still fit to compete at major competitions.
- o. The Tribunal is primarily concerned about the Welfare of the Horse as the most important principle in equestrian sports and is therefore very reluctant to accept the fact that old horses are monitored and medicated to keep them

competing at an international level.

- p. The Tribunal is also concerned about the definition of 'horsemanship' in some parts of the world where competitors are allocated to compete with a horse that belongs to a major stable without having a 'relationship' with their mount and not being involved in any way in the training and preparation of a horse for a major competition.
- q. It should be mentioned that the administered substance would normally fall under the Fast Track procedure but, due to the fact that this was a 2nd offence in a relatively short period, this case was brought before the Tribunal. It should also be noted that the mere presence of a prohibited substance is considered an objective rule violation.
- r. The FEI Tribunal notes that the PR's evidence and arguments were well-documented. The Tribunal accepts the explanations given by the PR and the treating Veterinarian, but is nevertheless of the opinion that the communication between the parties concerned was not adequate in regard to the ability of the Horse to compete at the Event. The Tribunal is of the opinion that the parties concerned have been negligent as they should have been aware that the administered forbidden substance was still present in the horse's fluids at the day of the competition
- s. In deciding the sanctions the FEI Tribunal considered, on the one hand, the doping violation and types of substances involved as well as the conduct of the PR and his veterinarian and, on the other hand, the PR's amateur "status", the level of the Event and the PR's cooperation in the investigation. The Panel considers that the positive result is sufficient to establish that, despite the explanations given, the PR was negligent by not having ensured that his Horse was competing drug-free at the Event. Furthermore, the Tribunal raises the issue of the Welfare of the Horse and is reluctant to accept the fact that ageing horses are medicated in order to keep them fit to compete at an international level, and, therefore, imposes a suspension of the horse.

4.2 Disqualification

As a result of the foregoing, the FEI Tribunal has decided to disqualify the horse LITTLE JOE FOX and the PR from the Event and that all medals, points and prize money won at the Event must be forfeited, in accordance with EADMCRs Article 9.

4.3 Sanctions

As a consequence of the foregoing, the FEI Tribunal decides to

impose on the PR the following sanctions, in accordance with GR Article 174 and EADMCRs Article 10:

- 1) The PR shall be suspended for a period of **1 month** to commence immediately and without further notice at the expiration of the period in which an appeal may be filed (30 days from the date of notification of the written decision) or earlier if the appeal is waived in writing by or on behalf of the PR.
- 2) The horse LITTLE JOE FOX **FEI Passport No:** NZL00537 shall be suspended for a period of **12 months** to commence immediately and without further notice at the expiration of the period in which an appeal may be filed (30 days from the date of notification of the written decision) or earlier if the appeal is waived in writing by or on behalf of the PR.
- 3) The PR is fined **CHF 1500.-**.
- 4) The PR shall contribute **CHF 500.-** towards the legal costs of the judicial procedure, and **CHF 750.-** towards the cost of the confirmatory analysis.

5. DECISION TO BE FORWARDED TO:

5.1 The person sanctioned: Yes

5.2 The President of the NF of the person sanctioned: Yes

5.3 The President of the Organising Committee of the event through his NF: Yes

5.4 Any other: Yes, Counsel of the PR

FOR THE PANEL



THE CHAIRMAN Mr Patrick A. Boelens
29 July 2008
(signed in his absence)