



DECISION of the JUDICIAL COMMITTEE of the FEI

dated 5 January 2007

Positive Medication Case: 2006/03

Horse: QUATRO

FEI Passport No.: BEL07232

Person Responsible: Abdullah Al-Sharbatly, KSA

Event: CSI-W / CSIJ-B Abu Dhabi (UAE), 25-26.01.2006

Prohibited Substances: Testosterone

1. COMPOSITION OF PANEL

Mr Patrick A. Boelens
Mr Jens Adolphsen
Mr Leonidas C. Georgopoulos

2. SUMMARY OF THE FACTS

2.1 Memorandum of case: by Legal Department.

2.2 Summary information provided by Person Responsible (PR): The Judicial Committee took into consideration all documents presented in the case file, as also made available to the PR through his legal representative and his National Federation.

2.3 Oral hearing: by teleconference on Friday 27 October 2006.

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

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

Statutes 21st edition, effective 21 April 2004, ("Statutes"), Arts. 001.6, 057 and 058.

General Regulations ("GR"), 21st edition, effective 1st January 2005, Arts. 142, 146.2 and 174.

Veterinary Regulations ("VR"), 9th edition, effective 1st January 2002, revised April 2005, Art. 1013 and Annex IV.

FEI Code of Conduct for the Welfare of the Horse, 2004.

3.2 Persons Responsible: Mr Abdullah Al-Sharbatly

3.3 Justification for sanction:

GR Art. 146.2: "Any horse found to have a Prohibited Substance in any of its tissues, body fluids or excreta at an event [...] is automatically disqualified, together with the competitor [...], from all competitions at that event, [...] unless the Judicial Committee decides based on the evidence to terminate the proceedings of the case."

4. DECISION:

A. The Relevant Facts

- 1) Quatro took part at the CSI-W / CSIJ-B in Abu Dhabi (UAE), from 25 to 26 January 2006 (the "Event"). Quatro was ridden by Mr Abdullah Al-Sharbatly who was the Person Responsible for the horse in accordance with GR Article 142 (the "PR").
- 2) Quatro was selected for sampling on 26 January 2006. Analysis of both A and B samples were found to establish the presence of testosterone in a concentration of 46.7 ± 4.2 ng/ml and 46 ng/ml respectively, higher than the international threshold for a gelding set at 20 ng/ml in urine, as evidenced by the Medication Sub-Committee ("MSC") reports dated 5 March and 11 May 2006.
- 3) Testosterone is a male hormone with anabolic and androgenic properties and is graded "1" by the MSC Reports. This is the highest grade on a scale of "1" to "5", reflecting the highest potential to enhance performance.
- 4) In its report dated 11 May 2006, the MSC commented that apart from testosterone, no testicular steroid was detected, suggesting this horse is unlikely to be a rig and therefore that the source of the testosterone is exogenous.

B. Jurisdiction

- 5) The Judicial Committee has jurisdiction over this matter pursuant to Articles 057 and 058 of the FEI Statutes.

C. Analysis

- 6) The Judicial Committee is satisfied that the laboratory reports reflect that the tests were accurately performed in an acceptable method and that the findings

of the laboratories are accurate. The Judicial Committee is satisfied that the test results show the presence of the prohibited substance testosterone at a level higher than the permitted concentration in the FEI Veterinary Regulations. 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.

- 7) 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 rebut this presumption.
- 8) In a letter dated 31 May 2006, the PR's legal representative explained that the groom responsible for the horse Quatro has admitted having administered a product to the horse prior to his participation in the Event.
- 9) Counsel for the PR produced a statement in which the horse's groom ostensibly states he was looking after the horses of the PR's family and especially Quatro. In the statement, the groom recognizes that he gave to the horse a product whose name he apparently does not recollect, that was recommended to him in his country. By administering this product to the horse, he was seemingly hoping to better its chances for success at the Event, thereby increasing the likelihood that he would accompany the horse to Europe for future competitions. A faxed copy of what appears to be the groom's identity card has been produced in the file.
- 10) The Judicial Committee noted that despite the fact that the hearing was held by teleconference, neither the PR nor the groom, who is allegedly implicated, were present to give testimony. The Judicial Committee regrets this given the nature of the substance found in the horse's system, the resulting severity of the offence, and the nature of the explanation given. Indeed, the file does not contain a statement by the PR himself, but rather a brief one provided by counsel. It is the PR's responsibility to rebut the presumption of intent to enhance performance, and the panel in this case was provided with an unverified statement of a third party which refers to a substance that is not identified.
- 11) As a result, the evidence provided is insufficient to satisfactorily explain the role of the PR and that of his groom or other potential third parties in this matter. Even if the authenticity of the groom's statement could be verified, which it could not from the documents provided, the matter of whether the substance that was administered by the groom could in fact lead to a positive test result to testosterone remains unsettled. Moreover, given the absence of personal testimony from the PR, it is not possible to ascertain the level of instruction, if any, that he has given to his support personnel, concerning the use of prohibited substances, or whether he has established any procedures, whether prior to or subsequent to the positive result that would tend to limit the occurrence of rule violations such as the one at issue in the instant case.

- 12) For the foregoing reasons, the PR has not succeeded in rebutting the presumption that the administration of the medication was a deliberate attempt to affect the performance of the horse. The Judicial Committee has taken this into account in reaching its decision, which is also based on the type of substance and the level of the event involved.

D. Decision

As a consequence of the foregoing, the Judicial Committee decides as follows:

- 1) Disqualification of the horse Quatro and the PR from the above Event and forfeiture of all prize money.
- 2) The PR shall be suspended for a period of **6 (six) months** to commence immediately and without further notice on the day following the notification of this decision to the PR's National Federation.
- 3) The PR is fined **CHF 2500**.
- 4) The PR shall contribute **CHF 1000** towards the legal costs of the judicial procedure and **CHF 750** for the confirmatory analysis.



[For the Judicial Committee]