



**PARTIAL DECISION
of the FEI TRIBUNAL
dated 22 April 2014**

Positive Anti-Doping Case No.: 2013/BS07

Horse: CLIFTON PROMISE

FEI Passport No: NZL01162

Person Responsible/NF/ID: Jonathan Paget/NZL/10016860

Event/ID: CCI4* - HSBC, Burghley – The Land Rover Burghley International Three Days Event (GBR)/2013_CI_0076_C_SA_01_01

Date: 5 - 8 September 2013

Prohibited Substance: Reserpine

I. COMPOSITION OF PANEL

Mr. Pierre Ketterer, Chair
Mr. Erik Elstad, Panel Member
Dr. Armand Leone, Panel Member

II. SUMMARY OF THE FACTS

- 1. Memorandum of case: By Legal Department.**
- 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 with regards to the establishment of a violation of the FEI Equine Anti-Doping Rules, as also made available by and to the PR.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

- 1. Articles of the Statutes/Regulations which are applicable or have been infringed:**

Statutes 23rd edition, effective 8 November 2012 ("Statutes"), Arts. 1.4, 38 and 39.

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2013, Arts. 118, 143.1, 161, 168 and 169 ("GRs").

Internal Regulations of the FEI Tribunal, 2nd edition, 1 January 2012 ("IRs").

FEI Equine Anti-Doping and Controlled Medication Regulations ("EADCMRs"), 1st edition, effective 5 April 2010, updates effective 1 January 2013.

FEI Equine Anti-Doping Rules ("EAD Rules"), 1st edition, effective 5 April 2010, updates effective 1 January 2013.

Veterinary Regulations ("VRs"), 13th edition, effective 1 January 2013, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

2. Person Responsible: Mr. Jonathan Paget

3. Justification for Tribunal finding:

GRs Art. 143.1: "Medication Control and Anti-Doping provisions are stated in the Anti-Doping Rules for Human Athletes (ADRHA), in conjunction with The World Anti-Doping Code, and in the Equine Anti-Doping and Controlled Medication Regulations (EADCM Regulations)."

EAD Rules Art. 2.1.1: "It is each *Person Responsible's* personal duty to ensure that no *Banned Substance* is present in the *Horse's* body. *Persons Responsible* are responsible for any *Banned Substance* found to be present in their *Horse's Samples*, even though their *Support Personnel* will be considered additionally responsible under Articles 2.2 – 2.7 below where the circumstances so warrant. It is not necessary that intent, fault, negligence or knowing *Use* be demonstrated in order to establish an *EAD Rule* violation under Article 2.1."

EAD Rules Art. 9: "A violation of these EAD Rules in connection with a test in a given *Competition* automatically leads to the *Disqualification* of the result of the *Person Responsible* and *Horse* combination obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any related medals, points and prizes. Even if a Sanction is reduced or eliminated under Article 10 below, such reduction or elimination shall under no circumstances reverse the automatic Disqualification of Individual Results mandated by this Article 9".

IV. DECISION

1. Factual Background

- 1.1 CLIFTON PROMISE (the "Horse") participated at the CCI4* (HSBC, Burghley – The Land Rover Burghley International Three Days Event) in Burghley, Great Britain from 5 to 8 September 2013 (the "Event"), in the discipline of Eventing. The Horse was ridden by Mr. Jonathan Paget who is the Person Responsible in accordance with Article 118.3 of the GRs (the "PR").
- 1.2 The Horse was selected for sampling on 8 September 2013.
- 1.3 Analysis of urine and blood sample no. 5524994 taken from the Horse at the Event was performed at the FEI approved laboratory, the Horseracing Forensic Laboratory Sport Science Ltd. (UK) ("HFL"). The analysis of the blood sample revealed the presence of Reserpine.
- 1.4 The Prohibited Substance detected is Reserpine. Reserpine is a tranquiliser with behavioural modification effects. Reserpine is classified as a Banned Substance under the FEI Equine Prohibited Substances List. Therefore, the positive finding for Reserpine in the Horse's sample gives rise to an Anti-Doping Rule Violation under the EAD Rules.

2. The Further Proceedings

- 2.1 On 14 October 2013, the FEI Legal Department officially notified the PR, through the Equestrian Sports New Zealand ("NZL-NF"), of the presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the consequences implicated. The Notification Letter included notice that the PR was provisionally suspended and granted him the opportunity to be heard at a Preliminary Hearing before the FEI Tribunal.
- 2.2 The Notification Letter further included notice to the owner of the Horse – Ms. Frances Stead – that in accordance with Article 7.4 of the EAD Rules, the Horse was provisionally suspended for a period of two (2) months, from the date of Notification, i.e. 14 October 2013, until 13 December 2013. The above Provisional Suspension of the Horse has not been challenged by the owner, and the Horse has served the entire period of Provisional Suspension.

3. The B-Sample analysis

- 3.1 Together with the Notification Letter of 14 October 2013, the PR was also informed that he was entitled (i) to the performance of a B-Sample confirmatory analysis on the positive sample; (ii) to attend or be represented at the B-Sample analysis; and/or (iii) to request that

the B-Sample be analysed in a different laboratory than the A-Sample.

- 3.2 On 23 October 2013, the PR requested the B-Sample analysis to be performed in a different laboratory than the A-Sample analysis. Further, the PR requested that a representative attend the B-Sample analysis.
- 3.3 On 13 November 2013, the B-Sample analysis was performed at the Laboratoire des Courses Hippiques ("LCH"), France, under the supervision of Dr. Yves Bonnaire, Director of LCH. The representative of the PR, Dr. Mark Dunnett, and the representative of the FEI, Prof. Michel Audran, witnessed the entire analysis of the B-Sample, including the identification and the opening.
- 3.4 The B-Sample analysis confirmed the presence of Reserpine.
- 3.5 The results of the B-Sample analysis were provided to the PR and to the owner of the Horse through the NZL-NF, on 25 November 2013.

4. Written submissions by the PR

- 4.1 On 17 January 2014, the PR submitted his explanations for the positive finding. The PR explained that he accepted being the Person Responsible for the Horse.
- 4.2 With regards to the Prohibited Substance detected the PR accepted that Reserpine was classified as a Banned Substance under the FEI Equine Prohibited Substances List. He further accepted that the presence of Reserpine had been identified in the Horse's blood, and that the positive finding constituted a prima facie violation of Article 2.1 of the EAD Rules. The full details of the PR's submission will be addressed during the in-person hearing and in the Final Tribunal Decision.

5. The further proceedings

- 5.1 On 7 April 2014, the PR requested the Tribunal to rule on the automatic disqualification from the Event, including the consequent forfeiture of all medals, points and prize money, in accordance with Article 9 of the EAD Rules and in advance of a full hearing. In support of his request the PR argued that in light of the fact that he had accepted that Reserpine had been identified in the Sample, and that this constituted a prima facie violation of Article 2.1 of the EAD Rules, the Tribunal would inevitably have to automatically disqualify him from the Event, regardless of whether or not the Tribunal accepted his claim of No Fault and No Negligence for the positive finding. That furthermore, a ruling on the automatic disqualification from the Event in advance of a full hearing was of importance for the reputation and integrity of the sport, and in order to gain clarity over the winner of

the Event in advance of the Mitsubishi Motors Badminton Horse Trials, scheduled to commence on 7 May 2014.

- 5.2 On 8 April 2014, the Tribunal granted the FEI the possibility to comment on the PR's request.
- 5.3 On 9 April 2014, the FEI explained that given the circumstances of the case, and in particular the PR's acceptance of the rule violation, it did not have any objection to the PR's request.

6. Jurisdiction

- 6.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, GRs and EAD Rules. Furthermore, under Article 18.12 of the IRs the Tribunal shall have all powers necessary for, and incidental to, the discharge of its responsibilities under the FEI Rules and Regulations and these Procedural Rules of the FEI Tribunal. It follows from Article 18.12 of the IRs that the Tribunal may also render Partial Decisions prior to a full hearing, deciding specific undisputed issues of a case and provided that all Parties involved have been duly heard on the matter.

7. The Person Responsible

- 7.1 The PR is the Person Responsible for the Horse, in accordance with Article 118.3 of the GRs, as he was the rider of the Horse at the Event.

8. The Decision

- 8.1 The Tribunal is satisfied that the laboratory reports relating to the A-Sample and the B-Sample reflect that the analytical tests were performed in an acceptable manner and that the findings of both HFL and LCH are accurate. The Tribunal is satisfied that the test results evidence the presence of Reserpine. The PR did not contest the accuracy of the test results or the positive finding. Reserpine is classified as a Banned Substance under the Equine Prohibited Substances List.
- 8.2 The FEI has thus established an Adverse Analytical Finding, and has thereby sufficiently proven the objective elements of an offence in accordance with Article 2.1 of the EAD Rules. As follows from the above, the PR has accepted the positive finding both in the A- as well as in the B-Sample, and is furthermore accepting having committed a violation under Article 2.1 of the EAD Rules.
- 8.3 Once an EAD rule violation in connection with a test in a given Competition has been established, as set forth in Article 9 of the EAD Rules, this leads to the automatic disqualification of the result of the PR and Horse combination obtained in that Competition with all

resulting consequences, including forfeiture of any related medals, points and prizes.

- 8.4 The Tribunal is therefore disqualifying the Horse and the PR combination from the Competition and all medals, points and prize money won must be forfeited, in accordance with Article 9 of the EAD Rules.
- 8.5 A fully reasoned Final Decision, including a finding on sanctions and costs, shall be issued at the end of the proceedings, pursuant to Article 19.45 of the Internal Regulations of the FEI Tribunal.
- 8.6 This Decision can be appealed before the Court of Arbitration for Sport (CAS) within 30 days of the present notification.

FOR THE PANEL

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned above a solid horizontal line.

THE CHAIR, Mr. Pierre Ketterer