



DECISION of the FEI TRIBUNAL

dated 24 September 2007

Positive Medication Case No.: 2007/24

Horse: SLAWOJ PL

FEI Passport No: BEL41357

Person Responsible: Mrs Annie Vijt, BEL

Event: CEI 1* Ermelo, NED, 15 -17 June 2007

Prohibited Substances:

- (1)** Phenylbutazone
- (2)** Oxyphenbutazone
- (3)** Flufenamic Acid

1. COMPOSITION OF PANEL

Prof Dr Jens Adolphsen
Mr Ken E. Lalo
Dr Alberto Hernán Mendez Cañas

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

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

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 1 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: Mrs Annie Vijt

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."

4. DECISION

4.1 Consideration of the evidence:

- a. SLAWOJ PL (the "**Horse**") participated in CEI 1* Ermelo, NED, 60 KMs, from 15 to 17 June 2007 (the "**Event**"). The Horse was ridden by Mrs Annie Vijt who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 16 June 2007. Analysis of the urine sample no. FEI-0034700 taken from the Horse performed by the approved central laboratory of the FEI, the Laboratoire des Courses Hippiques ("**LCH**"), in France, revealed the presence of phenylbutazone, oxyphenbutazone and flufenamic acid (Certificate of Analysis 0034700 dated 10 July 2007). The PR notified the FEI by a letter dated 27 July 2007 that she accepted the results of the analysis.
- c. All three substances are Non-Steroidal Anti-Inflammatory Drugs (NSAIDs), oxyphenbutazone being a metabolite of phenylbutazone (Veterinary Department's Statement dated 19 July 2007) and accordingly are substances, when present together, specified in the first section of the Equine Prohibited List (VR Annex III) as "Doping" Prohibited Substances.

- d. 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 LCH are accurate. The FEI Tribunal is satisfied that the test results show the presence of the Prohibited Substances. 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.
- e. 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 she bears no fault and no negligence or no significant fault and no significant negligence, in accordance with EADMCRs Article 10.5.
- f. In her written explanations dated 27 July, 8 August and 22 August 2007 the PR states that she is a "recreational rider", having no ambitions in competition, neither experience in the world of Horsesport and that this 60 KMs ride was her first international ride. She even thought that she was not registered as an FEI rider, which she was for 2006 only.
- g. She explained that her Horse had been shod on 8 June 2007 and had been lame the day after as a result of this shoeing. The veterinarian, Dr Luc D'Hollander, visited the Horse on 9 June 2007 and testified, in his written statement, that the Horse was "slightly lame on the anterior right" and that "in view of the competition in Ermelo on 14 June 2007 [he] advised some rest and to wash the foot regularly with cold water".
- h. The PR stated that on Sunday 10 June 2007, she felt compassion for the Horse and gave him 4 pills of Phenylbuzolidine (200mg) and Mobilisin creme out of her own medicine box to comfort the Horse. She explained that she was in possession of these medicines following an accident she had had during the 2006 winter. She justified her action as thinking that "what is good for me is good for my horse as well", adding that "it was certainly not my intention to give him something to influence his results. [...] I am absolutely pro doping control to protect the horses in competition. [...] I had no other intention than to give him some relief, to take away his pain at that moment. [...] I had no idea that those medicines stay that long in the horse's system, had I known, I certainly would have not gone to Ermelo!".

- i. Lies De Backer, FEI Veterinarian, testified, in her statement dated 21 August 2007, that "an administration of phenylbutazone and flufenamic acid one week prior to sampling could explain the positive test result for these two substances. The explanation would illustrate a complete ignorance of the FEI rules pertaining to treatment of competition horses." The PR admitted that she made a mistake and argued that it was not deliberate but due to her ignorance, out of lack of interest and ambition.
- j. The FEI Tribunal is convinced, after consideration of all the evidence, of the possible causal link between treatment and test result.
- k. The Panel considers that the positive result is sufficient to establish that despite the explanations given, the PR was negligent by giving to the Horse prohibited substances in close proximity to the Event and by not having ensured that her Horse was competing drug-free at the Event.
- l. 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 in administering the substances and, on the other hand, the PR's complete amateur "status", the lack of ambition to compete at an international level, the PR's age, the level of the Event (a 60 KMs ride at a CEI 1*) and the PR's cooperation in the investigation.
- m. The FEI Tribunal stresses that it is the PR's duty to know about sporting rules. This is a vital obligation for all competitors, professionals and amateurs.

4.2 Disqualification

As a result of the foregoing, the FEI Tribunal has decided to disqualify the horse SLAWOJ PL 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 **4 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.

2) The PR is fined **CHF 500.-**.

3) The PR shall contribute **CHF 250.-** towards the legal costs of the judicial procedure.

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: No

6. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:

Date : 24 September 2007

Signature: 