



## DECISION of the JUDICIAL COMMITTEE of the FEI

dated 15 September 2006

**Positive Medication Case No.:** 2004/27

**Horse / FEI Passport No:** CHARLIE / UAE00845

**Persons Responsible (together "PRs"):** 1) Mohammed Jassim Al Yagout, KSA (rider)  
2) Abdulla Saif Al Nuaimi, QAT (owner)

**Event:** CEI2\* Doha, QAT, 19.03.2004

**Prohibited Substances:** Phenylbutazone, Oxyphenbutazone and 4-Methylaminoantipyrine

### 1. COMPOSITION OF PANEL

Mr Erik Elstad  
Mr Ken E. Lalo  
Dr Jens Adolphsen

### 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 PRs through their respective National Federation.

**2.3 Oral hearing:** Not requested by the PRs, by correspondence.

### 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 20<sup>th</sup> edition, effective 17 April 1999, revision April 2001 ("Statutes"), Arts. 001.6, 057 and 058.

General Regulations ("GR"), 20th edition, revision April 2001, Arts. 142, 146.2 and 174.

Veterinary Regulations ("VR"), 9<sup>th</sup> edition, effective 1 January 2002, Art. 1013 and Annex IV.

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

### 3.2 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. The horse Charlie, ridden by Mohammed Jassim Al Yagout (the "Rider") while owned by Abdulla Saif Al Nuaimi (the "Owner") (the Rider and the Owner, together the "PRs"), participated in the CEI2\* (120 km) in Doha on 19 March 2004 (the "Event"). The Event was organized and managed by the Qatar Racing and Equestrian Club ("QREC") and QREC was the Organizing Committee for the Event.
2. The FEI Veterinary Commission stopped Charlie during the race because of its metabolic conditions. The horse was sent to the ambulatory clinic and received the necessary treatment.
3. Analysis of blood samples taken from Charlie on 19 March 2004 conducted by the approved central laboratory, the Laboratoire des Courses Hippiques, France ("LCH"), was found to contain Phenylbutazone, Oxyphenbutazone and 4-Methylaminoantipyrine. A confirmatory analysis was not requested by the PRs.
4. Phenylbutazone and its metabolite Oxyphenbutazone are non-steroidal anti-inflammatory agents acting, inter alia, on the locomotor system. 4-Methylaminoantipyrine is a metabolite of another non-steroidal anti-inflammatory agent, dipyrene. These substances were altogether graded "1" by the Medication Sub-Committee of the FEI as evidenced by its report dated 21 May 2004.
5. According to a statement dated 30 September 2005 from Frits Sluyter, Head of the FEI Veterinary Department, the treatment of the horse at the ambulatory clinic explains the presence of 4-methylaminoantipyrine. The therapy administered to the horse included among other substances, Buscopan. The two other substances cannot be explained by this treatment. The treatment administered to the horse is evidenced by a medical report issued by the responsible veterinarian.
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 LCH are accurate. The Judicial Committee is satisfied that the test results show the presence of the prohibited substances, Phenylbutazone and Oxyphenbutazone and 4-Methylaminoantipyrine. The accuracy of the laboratory analysis was not challenged by the PRs.

7. The Rider, whose nationality is declared to be that of the Kingdom of Saudi Arabia (KSA), was not registered with the Saudi Arabian Equestrian Federation. The Rider is domiciled in Qatar and was informed about the result of the analysis on 19 August 2004 through the QAT-NF.
8. The Rider responded on 22 August 2004 explaining that he does not feel responsible for the positive finding. The Rider stated had seen the horse for the first time on the day before the Event. The training, medication and crewing were done entirely by the owner and trainer and their team before and during the race. The Rider identified the Owner and Mr. Hadi Nasser Alramazani as the trainer, both of Qatari nationality. The Rider stated that he never had at any time before, during or immediately after the race any knowledge of the administration of the Prohibited Substances to the horse.
9. The Rider also stated that according to the rules in Qatar the trainer/owner is the Person Responsible by signing the entry form. According to this, the Rider stated that he was not the Person Responsible in this case. He attached a blank "Entry Form" which requires the name of the rider, the horse and the trainer. Under the name of the trainer it is said:

"I, The Trainer admit that I will Observe all rules, regulations and conditions of marathons & Endurance rides. Accordingly I Sign hereunder and acknowledge to be liable for all established sanctions in case I violate such rules, regulations and conditions."
10. In a letter dated 28 September 2004, sent by fax to Mr. Mubarak Al Khayarin, who was, at that time, Secretary General of the QAT-NF, the FEI informed Mr. Abdulla Saif Al Nuaimi, as the owner of the horse and Person Responsible together with the Rider, about the case. A copy of the file was sent to the Owner and he was requested to confirm to the FEI whether or not he accepted the results of the analysis. The FEI did not receive any response from or on behalf of the Owner.
11. According to a copy of the passport of the horse, Al Wathba Endurance Stables, UAE, owned Charlie. Therefore, on 16 December 2004, a copy of the file was also sent by the FEI to the UAE Equestrian and Racing Federation's Secretary General, Mr. Hussain, to be forwarded to Mr. Abdulla Saif Al Nuaimi. The UAE Equestrian and Racing Federation provided the FEI with a statement confirming that the horse changed of ownership on 16 October 2002 and he was no longer own by Al Wathba Stables at the time of the Event.
12. Still without any answer from the Owner, the FEI tried once again to contact Mr. Abdulla Saif Al Nuaimi through a letter dated 17 March 2005 addressed to Mr. E. Bhasi Al Marri from the QAT-NF further to a telephone conversation with Mr. Al Marri. The deadline for a written response was extended to 26 March 2005.
13. In an e-mail dated 08 April 2005 from Emmett Ross on behalf of the Chairman of the Endurance Committee in Qatar, it is explained that the QAT-NF took over the management of endurance only in October 2004. Mr. Ross stated that it was the clear intention of the QAT-NF to

have the FEI rules followed carefully in the future. In light of the situation surrounding the past management of endurance in Qatar, Mr Ross asked the FEI to settle this old case quickly and issue a warning to the PRs. They also mentioned that the Rider was not the PR according to the statement provided by the Rider.

14. The case was forwarded to the Judicial Committee on 30 September 2005 for its decision. Mr. Abdulla Saif Al Nuaimi is presumed to having received notification of the case and to having been informed about the findings and the right to request a confirmatory analysis. The Judicial Committee must assume that the Owner has decided not to submit a written explanation.
15. GR Art. 142.2 provides that the competitor who rides shall normally be the Person Responsible, but the owner may be regarded as an additional Person Responsible if he is present at the event or has made a relevant decision about the horse. The same applies in cases of international competitions organized with horses provided by the host NF according to GR Art. 116. The Event does not seem to have been arranged as an event with borrowed horses according to GR Art. 116, but nevertheless the horses seem to have been provided by the host NF. The Rider explained that “the first time I saw the horse was at the day before the start of the ride. The training, medication and crewing were done entirely by the owner/trainer and their team before and during the ride”. Mr. Abdullah Saif Al Nuaimi was identified as the owner.
16. In this case the Judicial Committee is of the view that both the Rider and the Owner should be treated as Persons Responsible according to GR Art. 142.2.

## **B. Jurisdiction**

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

## **C. Analysis**

18. The case is an old case and is decided two years after the Event. The FEI must take some responsibility for the delay, as well as the Owner who has not answered to the notifications sent to him by different means.
19. This case highlights the difficulty to address cases in which the rider is not the owner of a horse. This is becoming increasingly problematic in view of the relatively high number of such cases which have been submitted to the FEI Judicial Committee, at present most commonly in endurance riding.
20. In order to have a fair and equitable system of dealing with positive doping/ medication cases, riders of borrowed (or other than self owned horses) should not stand to benefit from the lack of clarity and certainty

sometimes evidenced in these situations in which a horse is given to the custody of the rider only in close proximity to the event.

21. The policy of the FEI at the time of the Event, which is also prevalent at the time this decision is rendered, is that the rider is the primary person responsible for a horse ridden at an event. Although, in appropriate circumstances, others may also be responsible, this does not alter the primary responsibility of the rider.
22. This policy is based on the premise that the rider is the sportsperson who competes and stands to win at an event and is in the best position to ensure proper controls over a horse used by him or her at an event (even if through third parties). Otherwise, the “blame” may always be transferred to third parties such as stable owners, grooms, veterinarians, trainers, horse owners or unknown third parties.
23. It is up to the rider to ensure excellent stable management and proper security over horses used in international events in order to ascertain that they are not administered any prohibited substances either negligently or willfully. This has been stated time and time again in a multitude of varying cases in which it was evidenced that third parties had actual control over the horses at issue.
24. Similarly, it is up to a rider to ensure that borrowed horses are free from prohibited substances prior to being transferred to the control of the rider, even if this change of custody is accomplished only minutes before an event.
25. The vital policy of the FEI to ensure horses are not doped while competing in international events cannot be compromised due to the fact that riders ride borrowed horses. The transfer of responsibility between rider and owner cannot relieve a rider from responsibility, as a contrary position would jeopardize the crucial FEI policy that horses must compete free of prohibited substances. If a rider is not absolutely and positively convinced that a horse ridden at an international event does not have prohibited substances in its systems, the rider should not agree to ride the horse at the event. The rider should assess the risk and also accept any unknown risks. This is in line with the FEI strict liability policy in connection with doping cases.
26. In this case the Owner has not provided the Judicial Committee with any explanation. The mere fact that the horse was under the custody of the Owner until a short time prior to the Event cannot serve, by itself, as clear evidence regarding the administration of any prohibited substance while under the Owner’s custody, thereby allowing the PRs to rebut the presumption of a deliberate attempt to affect the performance of the horse (see also CAS 92/86, *W. v. FEI*, April 19, 1993, Digest of CAS Awards I 1986-1998, at page 164).
27. The Panel concludes that the PRs were unable to rebut the presumption that the positive results relating to the substances Phenylbutazone and its metabolite Oxyphenbutazone were the result of a deliberate attempt to affect the performance of the horse (GR Art. 174.7.3). Therefore, the penalties provided by GR Art. 174.7.2.1 apply.

**D. Decision**

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

1. Disqualification of the horse Charlie and the Rider, Mr. Mohammed Jassim Al Yagout, from the Event and forfeiture of all prize money.
2. The Rider, Mr. Mohammed Jassim Al Yagout, shall be suspended for a period of three (3) 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 Rider.
3. No fine is imposed to the Rider considering that the file was delayed primarily because of the Owner.
4. The Owner of the horse at the time of the Event, Mr. Abdulla Saif Al Nuaimi, QAT, is fined CHF 3'000.
5. In addition, Mr. Mohammed Jassim Al Yagout and Mr. Abdulla Saif Al Nuaimi are liable to pay, in equal parts among them, CHF 1'000 towards the costs of administering the case.

**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

**6. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:**

Date : ..... ..

Signature: ..... ..