



DECISION of the FEI TRIBUNAL

dated 21 November 2007

Positive Medication Case No.: 2007/28

Horse: DOCS PEPPY SAN TWO

FEI Passport No: BEL07842

Person Responsible: Mr William R. Clark, USA

Event: CRI 1* Syracuse NY, USA, 7-10 June 2007

Prohibited Substance:

Phenylbutazone

1. COMPOSITION OF PANEL

Mr Erik Elstad
Dr Alberto Hernán Mendez Cañas
Mr Pierre Ketterer

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 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 ("**EADMCs**"), 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: Mr William R. Clark

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. Docs Peppy San Two (the "**Horse**") participated in CRI 1* Syracuse, USA, from 7 to 10 June 2007 (the "**Event**"). The Horse was ridden by Mr William R. Clark who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 9 June 2007. Analysis of the urine and blood samples no. FEI G07213 taken from the Horse performed by the approved laboratory of the FEI, the Equine Drug Testing and Research Laboratory ("**EDTRL**"), in Ithaca, USA, revealed the presence of phenylbutazone (Analysis Report FEI G07213 issued 25 June 2007).
- c. Phenylbutazone is a Non-Steroidal Anti-Inflammatory drug (NSAID) (Veterinary Department's Statement dated 25 July 2007) and accordingly is a substance specified in the third section of the Equine Prohibited List (VR Annex III) as "Medication Class A" Prohibited Substance.
- d. Further to receipt of the A sample result on 25 July 2007, the FEI Legal Department, pursuant to established procedure for cases including this substance, provided the PR, through his NF, on 10 August 2007, with the opportunity to accept administrative sanctions including:
 - 1.1 "Disqualification from the event and forfeiture of all prizes and prize money won at the event with the horse in question; and
 - 1.2 Fine of CHF 1'000.- and

1.3 Costs of CHF 500.-."

- e. The Legal Department reiterated its offer on 23 August 2007 and received no answer from the PR, either by fax or mail. The USA-NF informed the FEI Legal Department on 20 September 2007 that they had spoken with the PR's wife on more than one occasion and that she had advised that they would not pay anything so that their intention was not to accept the administrative sanctions. The Legal Department forwarded the case to the FEI Tribunal on 27 September 2007.
- f. A confirmatory analysis has not been timely and properly requested by or on behalf of the PR.
- g. The FEI Tribunal is satisfied that the laboratory report reflects that the test was accurately performed in an acceptable method and that the findings of EDTRL 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 medication control violation in accordance with EADMCRs Article 3.
- h. The establishment of the objective elements of a medication control violation for Medication Class A Prohibited Substances is subject to the consequences listed in Art. 10.2 EADMCRs.
- i. The FEI invited the PR, on several occasions, through his NF, to accept the administrative sanctions and to submit written explanations with respect to the positive test results. These letters remained unanswered.
- j. In light of the circumstances of the case, the FEI Tribunal can only take notice of the absence of an explanation by the PR.
- k. EADMCRs Art. 10.2 provides for a suspension of up to one (1) year for Medication Class A Prohibited Substances. A fine of up to CHF 15'000.- may also be imposed.
- l. The administrative sanctioning process has been established for Prohibited Substances having a lower potential to affect the performance of the horse, when it is a first offence and not a Major Event. The PR has the option to accept the administrative sanction provided by the FEI which enables him to resolve the matter quickly and without a suspension. When the PR decides not to take advantage of this simple process and the case is submitted to the Tribunal, the Tribunal must decide the case according to the normal procedure, as has been notified to the PR. The benefit of the doubt given to the PR through the administrative sanction is no longer applicable.
- m. In deciding the sanctions the FEI Tribunal considered, on the one hand, the medication control violation and type of

substance involved, which is a Medication Class A Substance, and on the other hand the level of the Event and the absence of any explanation with respect to the presence of the Prohibited Substance in the body fluids of the Horse. The Tribunal is of the opinion that even if Reining is a relatively new discipline within the FEI, a rider who competes at international competitions under the FEI Rules and Regulations should be aware of the applicable FEI Rules and Regulations.

4.2 Disqualification

As a result of the foregoing, the FEI Tribunal has decided to disqualify the horse Docs Peppy San Two 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 (four) 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 1'000.-** 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 : 21 November 2007

Signature: 