



DECISION of the FEI TRIBUNAL

dated 6 November 2008

Positive Medication Case No.: 2007/29

Horse: Idol de Reve

FEI Passport No: ESP03360

Person Responsible: Mr René Tebbel, GER

Event: CSIO 5* Aachen (SSL) (GER)

Prohibited Substance: Testosterone

1. COMPOSITION OF PANEL

Mr Patrick A. Boelens
Mr Pierre Ketterer
Prof. 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 FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file as also made available by and to the PR.

2.3 Oral hearing: on 16 June 2008 by conference call.

Present: The FEI Tribunal Panel

For the FEI:

Ms Laetitia Zumbrunnen, Legal Counsel
Ms Catherine Bollon, Legal Coordinator
Dr Frits Sluyter, Head of the FEI Veterinary Department

For the PR:

Mr René Tebbel, Person Responsible
Mrs Misti Casarr, Owner of the Horse
Dr Peter Cronau, Treating veterinarian / Witness

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

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

Statutes 21st edition, revision effective May 2006, ("**Statutes**"), Arts. 001.6, 057 and 058 and Statutes 22nd edition, effective 15 April 2007,

("New Statutes"), Arts. 1.4, 34 and 37.

General Regulations, 21st edition, effective 1 June 2006, Arts. 142, 146.1 and 174 ("GR") and General Regulations, 22nd edition, effective 1 June 2007, Arts. 142, 146.1 and 174 ("New GR").

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 1st 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 René Tebbel

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. Idol de Reve (the "**Horse**") participated in CSIO 5* in Aachen (SSL), Germany, from 3 to 8 July 2007 (the "**Event**"). The Horse was ridden by Mr René Tebbel who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 7 July 2007. Analysis of the sample no 0022105 taken from the Horse performed by the approved central laboratory of the FEI, the Laboratoire des Courses Hippiques ("**LCH**"), in France, under the supervision of Dr Yves Bonnaire, Director, revealed the presence of Testosterone (Certificate of Analysis 0022105 dated 27 July 2007).
- c. Testosterone is an Anabolic Steroid, whose regulatory threshold for mares is 55 ng/ml, and is classified as a Doping prohibited substance when above this threshold. In the sample, a concentration of 82,5 ± 5,8 ng/ml was found (Certificate of Analysis dated 27 July 2007 and Veterinary Department's Statement(s) dated 14 August 2007) and accordingly shall be classified in the first section of the Equine Prohibited List (VR Annex III) as "Doping" Prohibited Substances.

- d. On 3 September 2007, further to receipt of the A sample result, the FEI Legal Department, pursuant to established procedure for cases including this type of substance, provided the PR with the opportunity to request a confirmatory analysis and a hearing.
- e. The PR did not submit a request for a confirmatory analysis.
- f. The FEI Tribunal is satisfied that the laboratory report dated 27 July 2007 reflects that the test was 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 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 doping offence in accordance with EADMCRs Article 3.
- g. 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 he bears no fault and no negligence or no significant fault and no significant negligence, in accordance with EADMCRs Article 10.5.
- h. On 24 October 2007, the PR, through his lawyer, Dr Ulf Walz, did provide the FEI Legal Department with two veterinary reports and one expert opinion.

The first veterinary report is of Dr Peter Cronau (veterinarian of the PR) and is dated 7 October 2007. The second veterinary report is of Dr Giovanni Baglioni (veterinarian of the Italian NF and the owner) and is dated 12 October 2007. The expert opinion is of Dr Anton Fürst (University of Zurich) and is dated 12 October 2007.

- i. According to these PR's veterinary reports, the explanation for the positive sample lies in the fact that the Horse has a Granulosa-Cell-Tumor (CGT) in her right ovary and that such CGT typically produces large amounts of testosterone.
- j. Furthermore, and according to the PR's lawyer, neither the owner, Mrs Misti Casarr, nor the PR – who got the Horse 4 weeks before the Event – “knew about the existence of the CGT and its effect on the testosterone level”.
- k. It should be stressed that it appears, out of the above-mentioned PR's veterinarian reports, that the Horse did show an aggressive and stallion-like behaviour.
- l. Dr Frits Sluyter, head of the FEI Veterinary Department, and Dr Lies De Backer, FEI Veterinary coordinator, testify, in a statement dated 6 November 2007, that a CGT of “the ovary may in certain cases cause an increased testosterone level in the blood but it was surprising that no ultrasonographic examination had been carried out”. They also pointed out that “since the Horse seems to have an aggressive and stallion-like behaviour, it was equally surprising that neither the owner nor the PR ever consulted a veterinarian

about this abnormal behaviour and that an examination of the reproductive tract was never carried out before until after the test result became known." Dr Frits Sluyter and Dr Lies De Backer advised to have an official clinical and ultrasonographic exam of the ovaries of the Horse, including blood tests for testosterone levels.

- m. Such clinical and ultrasonographic exam of the ovaries of the Horse, including blood tests for testosterone levels, did take place in Zurich on 12 February 2008.
- n. Following this exam, it appears that the presence of a tumour on the right ovary was confirmed but the test did not confirm an abnormal high level of testosterone. According to Dr Frits Sluyter, "it remains unclear whether the test result in Aachen was caused by tumour secretions or by administration. CGT behave unpredictably; it is possible that a tumour secretes testosterone at some point in time and not at another point."
- o. According to the PR's lawyer, Dr Ulf Walz, the PR has been made aware of the tumour by Dr Cronau, since examining the mare on 20 September 2007. Furthermore, the PR was informed the first time on 20 September 2007 by Dr Cronau that stallion-like behaviour could have been caused by the tumour.
- p. On 18 April 2008, the owner of the Horse, Mrs Misty Cassar (the Owner), was provided with the Veterinary Report from Zurich University, the Certificate of Analysis from LCH and the FEI Veterinary Department's statements dated respectively 19 February, 29 February and 12 March 2008 and was asked to take position on the case.
- q. The Owner did reply by e-mail dated 13 May 2008. She informed the FEI Legal Department that the Horse was taken on April 8, 2008 to a vet hospital in Perugia, Italy and had the ovary removed. She stressed that "had she known that the Horse had this problem she would have not purchased it."
- r. By two e-mails dated 19 May 2008, the Owner further informed the FEI Legal Department that she was never aware of the welfare of the Horse being a factor before or even after the Event. It was not until the Horse went to Zurich that it was put in writing that the Horse was not fit for competition. She's an amateur rider that purchased the Horse and was unaware of the pre-existing problem. She also requested a hearing.
- s. Such hearing did take place on 16 June 2008 by conference call.
- t. The hearing did not add any additional information about the exact time the Owner was informed of the presence of an ovarian tumour as she did not have the intention to breed with the Horse and Dr Cronau testified that an anal examination is a normal procedure during a pre-purchase examination.
- u. The Owner testified that the Horse was examined before being shipped to the US and that a blood sample was taken to be examined for prohibited substances but it is possible that no Testosterone was present at that time.

- v. The FEI Tribunal notes that the PR's evidence and arguments were well-documented. The FEI Tribunal is nevertheless convinced, after consideration of all the evidence, of the mere presence of a prohibited substance at the time of sampling.
- w. The FEI Tribunal has repeatedly expressed that it is the responsibility of competitors to ensure that their horses do not have any prohibited substances in their systems while competing at international events. The PR should always inform himself of all medication given to horses ridden by him and ensure that they do not contain any prohibited substances.
- x. The FEI Tribunal deems that the PR acted with negligence because he did not have the Horse checked before competing at a 5* event and the FEI Tribunal does not accept that any rider just takes on a horse to compete without at least making sure that his horse is 'fit to compete' and 'free of prohibited substances'. As an experienced rider he should have been aware that the 'bitchy' and stallion-like behaviour of the Horse might have been an indication that there was something wrong.
- y. In deciding the sanctions the FEI Tribunal considers, on the one hand, the doping violation, the fact that the substance involved is Testosterone, the negligence of PR and the fact that the PR is experienced in the sport and has competed for many years at international level, and, on the other hand, the fact that this is the PR's first rule violation and the PR's cooperation in the investigation.

4.2 Disqualification

As a result of the foregoing, the FEI Tribunal has decided to disqualify the Horse 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 the FEI Tribunal has no proof that the PR was aware of the Horse's condition when competing at the Event, no further sanction is to be imposed on the PR.

The FEI Tribunal is also of the opinion that the Owner needs not to be sanctioned as she had the tumor removed after being advised of its presence although it needed some persuasion to have her convinced that it was necessary.

Under these circumstances, the FEI Tribunal considers that each party shall bear its own costs.

5. DECISION TO BE FORWARDED TO:

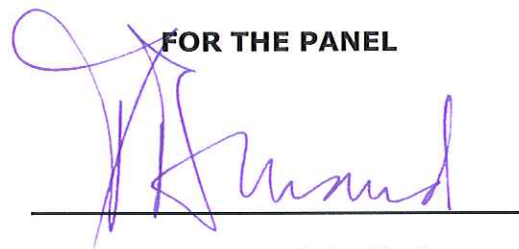
5.1 The person sanctioned: Yes

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 The Owner: Yes

5.5 The President of the NF of the Owner: Yes

FOR THE PANEL


**for and on behalf of
Mr Patrick A. Boelens
6 November 2008**