DECISION of the JUDICIAL COMMITTEE of the FEI

dated 28 July 2006

Positive Medication Case: 2006/32

Horse: LF FOLLOW ME VALLEE **FEI Passport No.:** BRA40062 (CBH13064)

Person Responsible: Sergio Henriques Neves Marins, BRA

Event: CCI1* Lagoa Santa (BRA), 23-26.03.2006

Prohibited Substances: Procaine

1. COMPOSITION OF PANEL

Mr Patrick Boelens
Mr Philip O'Connor
Mr Ken E. Lalo

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 PR through his National Federation.

2.3 Oral hearing: None, 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 21st edition, effective 21 April 2004, ("**Statutes**"), Arts. 001.6, 057 and 058.

General Regulations ("**GR**"), 21st edition, effective 1st January 2005, Arts. 142, 146.2 and 174.

Veterinary Regulations ("**VR**"), 9th edition, effective 1st January 2002, revision April 2005, Art. 1013 and Annex IV.

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

3.2 Persons Responsible: Mr Sergio Henriques Neves Marins

3.3 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) LF Follow Me Vallee ("**Horse**") took part at the CCI1* in Lagoa Santa (BRA), from the 23rd to 26th of March 2006 (the "**Event**"). The Horse was ridden by Mr Sergio Henriques Neves Marins who was the Person Responsible for the Horse in accordance with GR Article 142 (the "**PR**").

2) The Horse was selected for sampling on 26 March 2006. Analysis of the urine sample no. 2910 taken from the Horse performed by the FEI approved associate laboratory, the Jockey Club De Sao Paulo, Brazil ("**JCSP**"), was found to contain procaine. The PR waived his right to a confirmatory analysis on 28 June 2006.

3) Procaine is a local anaesthesthetic actind *inter alia* on the locomotor system and is graded "2" as evidenced by the report from the FEI Medication Sub-Committee ("**MSC**").

B. Jurisdiction

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

C. Analysis

5) 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 JCSP are accurate. The Judicial Committee is satisfied that the test results show the presence of the prohibited substance, procaine. The PR has accepted the test results and did not contest the accuracy of the testing methods or the positive findings. The FEI has thus sufficiently proven the objective elements of a doping offence.

6) 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 rebut this presumption.

7) In his letter of 28 June 2006, the owner of the Horse explains that after consulting the responsible veterinarian, he can report that the Horse was treated with antibiotic five days before the Event.

8) The veterinarian for the Horse, Dr Adriana Xavier Couto, stated that she inspected the Horse on 14 March 2006 and the Horse presented signs of a cold. The Horse has been competing on 11 March 2006 under rain and low temperature. The veterinarian prescribed five days of antibiotics, from 14th to 18th of March 2006. The veterinarian believed that the Horse had enough time to metabolize and totally eliminate the drug by the next competition.

9) On 5 July 2006, Dr Frits Sluyter, Head of the FEI Veterinary Department submitted a statement in which he explains that all antibiotics are permitted by the FEI with the exception of procaine-penicillin, as procaine can be detected for an extended and unpredictable time and acts as a local anesthetic. Dr Sluyter mentioned that he was of the opinion that administration of procaine-penicillin to a competition horse should be seen as negligence as many antibiotics on the market do not contain procaine. Lastly, Dr Sluyter states that the treatment given to the Horse should have been announced upon arrival at the Event to the FEI Veterinary Delegate for the issuance of a Medication Form 1. In the same statement, Dr Sluyter also indicated that procaine can be detected for an extended and unpredictable time and that this message has been presented in veterinary courses and provided as part of various explanations on FEI permitted treatments during the last decade.

10) Dr Adriana Xavier Couto, who is an FEI Vet for Eventing in Brazil (see FEI Directory) replied that she selected the antibiotics containing penicillin-procaine because it is an excellent drug to treat this kind of disease and she never had any problems with doping in her entire career.

11) In his statement of 19 July 2006, the PR reported being a professional rider for twenty years and never having any doping related problems. He works with several competition horses and coaches a number of young riders.

12) The Judicial Committee accepts that the positive findings are the result of legitimate treatment of the Horse and that, therefore, the PR has successfully rebutted the presumption set forth at GR Art. 174.6.2.1. However, the Panel of the Judicial Committee is of the opinion that the PR was negligent as he did not inform himself properly with respect to the treatments administered to his horse and their related withdrawal times. Although it is understandable that the PR relied on the veterinarian that had treated the Horse, especially since this veterinarian is on the list of FEI Vets for the discipline involved, it is ultimately the PR's responsibility to ensure that the Horse did not participate at the Event with prohibited substances within its systems. Furthermore, the treating veterinarian should have been aware of the fact that the administered antibiotic contained a forbidden substance with an unpredictable detection time. Nevertheless, the PR should always declare any treatments administered to a horse, in proximity to an event, to the FEI Veterinary Delegate for the issuance of the appropriate authorization to compete at the event.

D. Decision

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

1) Disqualification of the horse, LF Follow Me Vallee, and the PR from the Event and forfeiture of all prize money.

2) The PR shall be suspended for a period of one (1) month 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.

3) The PR is fined CHF 1'000.-

4) The PR shall contribute CHF 750.- 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

6. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:

Date: ..... Signature: .....