



DECISION of the JUDICIAL COMMITTEE of the FEI

dated 27 February 2007

Positive Medication Case: 2006/34

Horse: CAPRIGODE

FEI Passport No.: GER16449

Person Responsible: Claire McCarthy, GBR

Event: CSI 3* St Tropez, FRA, 26-28.05.2006

Prohibited Substances: Dexamethasone

1. COMPOSITION OF PANEL

Mr Patrick A. Boelens
Mr Erik Elstad
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 PR through her 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 1 January 2005, Arts. 142, 146.2 and 174.

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

3.2 Persons Responsible: Ms Claire McCarthy

3.3 Justification for sanction:

GR Art. 146.2: "[A]ny 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 provided to terminate the proceedings of the case."

4. DECISION

A. The Relevant Facts

- 1) Caprigode ("Horse") took part at the CSI 3* in St Tropez (FRA), from 26 to 28 May 2006 (the "Event"). The Horse was ridden by Ms Claire McCarthy 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 May 2006. Analysis of the urine sample no. 0003826, taken from the Horse, performed by the FEI approved central laboratory, the Laboratoire des Courses Hippiques ("LCH"), France, was found to contain Dexamethasone. The PR waived her right to a confirmatory analysis on 11 July 2006.
- 3) On 14 July 2006, the PR waived her right to an oral hearing through a letter of her National Federation to the FEI.
- 4) Dexamethasone is an anti-inflammatory corticosteroid acting *inter alia* on the locomotor system and is graded "2", as evidenced by the report from the FEI Medication Sub-Committee ("MSC") dated 2 July 2006.

B. Jurisdiction

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

C. Analysis

- 6) The Judicial Committee 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 Judicial Committee is satisfied that the test results show the presence of the prohibited substance, Dexamethasone. The PR accepted the test results and did not contest the accuracy of the testing methods. The FEI has thus sufficiently proven the objective elements of a doping offence.
- 7) 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

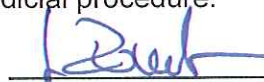
performance of the horse. The PR has the opportunity to seek to rebut this presumption.

- 8) On 11 July 2006, the PR provided a statement in which she explained that the Horse was treated by her veterinarian, Dr Frank Van Hoeck, for a lameness due to a spavin on the Horse's right leg prior to the Event. The PR states that it is the first time that she is involved in such a situation and she will do her utmost to ensure that it never happens again.
- 9) The PR's veterinarian confirmed in his statement of 6 July 2006 that he treated the Horse on 15 May 2006 in the tarso-metatarsal joint with 5mg Dexamethasone. He assures that he did not expect that this would lead to a positive test ten days after the treatment.
- 10) Under the circumstances mentioned above, the Judicial Committee is of the view that the PR has succeeded in proving that the positive findings are the results of legitimate treatment of the Horse and therefore rebutted the presumption of a deliberate attempt to affect the performance of the Horse according to GR 174.6.2.2.
- 11) However, it must be emphasized, that if a horse has received such legitimate treatment, it is the PR's duty to contact the FEI Veterinary Official upon arrival at the event, with the statement of her veterinarian, and request a Medication Form 1. In light of the above, the Judicial Committee is of the opinion that the PR was negligent in that she failed to ask the FEI Veterinary Official for the issuance of a Medication Form 1.

D. Decision

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

- 1) Disqualification of the horse Caprigode and the PR from the above Event and forfeiture of all prize money.
- 2) Considering that the substance is graded "2" by the MSC of the FEI on a scale of "1" to "5", "1" having the highest potential to affect the performance of the horse, a suspension of **2 (two) months** is appropriate and proportional. The suspension shall 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 2'000.-** (two thousand Swiss francs).
- 4) The PR shall contribute **CHF 750.-** (seven hundred seventy-five Swiss francs) towards the legal costs of the judicial procedure.



[For the Judicial Committee]