



DECISION of the FEI TRIBUNAL

dated 7 December 2007

Positive Medication Case No.: 2006/41

Horse: AL-PASSAL

FEI Passport No: RUS00541

Person Responsible: Ms Natalia Simonia, RUS

Event: CSI0 4* Drammen (NC), NOR, 22-25 June 2006

Prohibited Substances:

- (1) Dexamethasone
- (2) Procaine

1. COMPOSITION OF PANEL

Mr Ken E. Lalo
Prof. Dr. Jens Adolphsen
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 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 and 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 ("**EADMCRs**"), 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: Ms Natalia Simonia

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."

Subsequent to the adoption of the New Statutes, the Judicial Committee is now referred to herein as the "Tribunal".

4. DECISION

4.1 Consideration of the evidence:

- a. AL-PASSAL (the "**Horse**") participated in CSI0 4* Drammen, Norway, from 22 to 25 June 2006 (the "**Event**"). The Horse was ridden by Ms Natalia Simonia who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 24 June 2006. Analysis of the urine sample no. FEI- 0006321 taken from the Horse performed by the approved central laboratory of the FEI, the Laboratoire des Courses Hippiques ("**LCH**"), in France, revealed the presence of dexamethasone and procaine (Certificate of Analysis 0006321 dated 26 July 2006).
- c. The PR did not submit a request for a confirmatory analysis.
- d. The case was submitted to the Panel of the Tribunal on or about 25 October 2007. As a result of unavailability of one Panel member at that time, and a potential conflict with

another Panel member that had officiated at the Event, the Panel was finally confirmed and the file provided to all Panel members on 31 October 2007.

- e. Dexamethasone, an anti-inflammatory steroid, and procaine, a local anaesthetic (Certificate of Analysis 0006321 dated 26 July 2006), are substances, when present together, specified in the first section of the Equine Prohibited List (VR Annex III) as "Doping" Prohibited Substances.
- f. The FEI Tribunal 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 FEI Tribunal is satisfied that the test results show the presence of the Prohibited Substances. 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 she bears no fault and no negligence or no significant fault and no significant negligence, in accordance with EADMCRs Article 10.5.
- h. In her written explanations dated 28 August 2006, 8 October 2007 and 30 October 2007, the PR explains that her Horse was transported to the competition from the city of Rostov-na-Donu, Russia, where the PR is training, by lorry with only the driver, who was not her usual driver, as her regular driver and her groom had to stay in Moscow. The PR explains that near the city of St. Petersburg the Horse began to struggle and the driver went to the nearest stables to ask for assistance. The veterinarian on duty diagnosed that it was transport stress and gave the Horse two injections. The driver informed the groom of this incident but neither the driver nor the groom informed the PR.
- i. In her signed statements dated 8 October 2007 and 30 October 2007 the PR states that the driver who was entrusted to transport the Horse was Mr Nikolay Ivanov who is now retired and that, despite her best efforts, he could not be traced to give a written explanation and confirm her statements. The PR adds that she agrees in advance with any decision and punishment the Tribunal may impose and that, since this incident, she tries to accompany her horses as often as possible during transportation.

j. In her written statement, the groom, Ms Maria Moiseeva, explains that on 12 June 2006, when she took the Horse from the driver, she saw he had some grazes and haematomas and so she questioned the driver about them. The driver explained that the Horse had been administered Domosedan to quiet him, penicillin-procaine as a precaution against infections and grazes and small haematomas had been oiled with gel. She confirms that she did not inform the PR about the medications because the grazes were cured by the time the PR saw the Horse at the Veterinary Inspection at the Event. The groom also states that the driver had not mentioned the name of the stables at which he stopped or the name of the veterinarian that treated the Horse.

k. The case file was submitted to Dr Frits Sluyter, Head of the Veterinary Department of the FEI, for his review. In his statement Dr Sluyter mentions that:

"The situation where a horse requires veterinary intervention during transport is not unknown to us, especially when horses from countries with less experience in competition horses travel for extended periods by road transport.

However, the explanation does not seem completely parallel to the test result. If a horse becomes very agitated and unruly while on transport, one would expect a sedative (e.g. acepromazine, detomidine, xylazine) in the test result. In this case, no sedative but a corticosteroid and a local anesthetic (i.e. procaine) were found. The presence of procaine could be declared by the administration of procain-penicillin (antibiotic) as written in the statement of the groom.

The date of the treatments is also not given. In the case of dexamethasone, one expects this substance to be cleared from the horse in 48 hours (after routine dosage). This would mean that the horse was treated on the 22nd or 23rd (testing on 24th). The explanations do not provide a way to check whether this is possible. If the transport took place earlier, the horse was probably treated closer to the event for another reason.

Summarising, the explanation of a nervous horse that required treatment during transport does not explain the test result. However, from countries such as this we have seen odd test results more often, indicating a complete ignorance of our rules."

l. Considering the lack of supportive documents from the driver or the veterinarian and Dr Sluyter's evidence regarding the inappropriateness of the treatment for the condition identified by the PR and other inconsistencies in the PR's explanation, the Tribunal concludes that the PR has not met the balance of probability that is required under

EADMC Article 3.1. The Tribunal is further of the opinion that, even had the Tribunal accepted the PR's position, such position at best evidences a degree of gross negligence that would have resulted in substantially similar sanctions. Even based on the PR's position it is clear that there was complete lack of proper management of the transportation of the Horse to the Event, lack of communication between the PR's personnel and the PR, improper veterinary treatment for the condition and failure to declare the substances given on arrival to the Event. Given that such substances were not required for the condition identified – based on the evidence of Dr. Sluyter – it is likely that consent to compete at the Event would not have been granted.

- m. In deciding the sanctions the Tribunal considers, on the one hand, the doping violation and the fact that there was no meaningful explanation for the presence of the at least one of the substances as well as complete lack of proper management of the transportation of horses and communication between the PR's personnel and the PR prior to a high level FEI event and, on the other hand, the PR's cooperation in the investigation.

4.2 Disqualification

As a result of the foregoing, the Tribunal has decided to disqualify the horse AL-PASSAL 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 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 **five (5) 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 1'000.-**.
- 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 : 7 December 2007

Signature: 