



DECISION of the FEI TRIBUNAL

dated 6 February 2008

Positive Medication Case No.: 2007/41

Horse: Fanion de la Soret

FEI Passport No: ESP03008

Person Responsible: Mr Abel Muñoz, ESP

Event: CSI 3* Torre del Marqués, ESP, 22-23.09.2007

Prohibited Substances:

- (1)** Phenylbutazone
- (2)** Oxyphenbutazone
- (3)** Ketoprofen

1. COMPOSITION OF PANEL

Mr Ken E. Lalo
Mr Erik Elstad
Mr Patrick A. Boelens

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 evidence and documents presented in the case file, as also made available 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 ("**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 Abel Muñoz

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. Fanion de la Soret (the "**Horse**") participated at CSI 3* Torre del Marqués from 22 to 23 September 2007 (the "**Event**"). The Horse was ridden by Mr Abel Muñoz who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 22 September 2007. Analysis of the urine sample no. FEI-0036196 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 Phenylbutazone, Oxyphenbutazone and Ketoprofen (Certificate of Analysis 0036196 dated 17 October 2007).
- c. All three substances are Non-Steroidal Anti-Inflammatory Drugs (NSAIDs) (Veterinary Department's Statement dated 26 October 2007). While each of the substances when present alone is considered a Medication Class A substance, and while Oxyphenbutazone is considered a metabolite of Phenylbutazone, when found together in the same sample, these two substances, together with Ketoprofen, are considered as "Doping" Prohibited Substances and are

specified in the first section of the Equine Prohibited List (VR Annex III) (Veterinary Department's Statement dated 26 October 2007).

- d. A Confirmatory analysis has not been timely and properly requested by or on behalf of the PR and was, therefore, not carried out.
- e. 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.
- f. The establishment of the objective elements of a doping offence creates the presumption of guilt of the PR. 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.
- g. The PR has failed to provide any explanation in this case despite considerable efforts made by the FEI and the National Federation of Spain ("**ESP-NF**") to obtain such explanation. The ESP-NF has advised in its fax to the FEI dated 20 November 2007 that the PR had confirmed receipt of the case file and was awaiting a report from his vet before responding. Following additional notifications from and extension granted by the FEI, the ESP-NF advised in e-mails dated 28 November 2007 and 7 December 2007 that, despite their efforts, the PR has not provided an explanation in this case and that "*[A]s we inform in our past communications, we have sent all the information to the PR and we have been talking with him about the importance of his comments with[out] any success*" (ESP-NF e-mail to the FEI dated 7 December 2007).
- h. The Panel considers that the positive result and the lack of explanation are sufficient to establish the rule violation.
- i. In deciding the sanctions the FEI Tribunal considered, on the one hand, the doping violation, the level of the Event and the complete lack of communication and explanation, despite considerable efforts from the FEI and ESP-NF and apparent receipt of notice, and, on the other hand, the types of substances, the PR's amateur "status" and the PR's

young age (born in 1988).

4.2 Disqualification

As a result of the foregoing, the FEI Tribunal has decided to disqualify the horse Fanion de la Soret 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 **twelve (12) 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 : 6 February 2008

Signature: 