



DECISION of the JUDICIAL COMMITTEE of the FEI

dated 9 January 2007

Positive Medication Case No.: 2006/45

Horse: HAUT DE VAL

FEI Passport No: BEL09688

Person Responsible: Mr Alberto Harari, MEX

Event: CSI5* Estoril (POR), 21-23.7.2006

Prohibited Substances:

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

1. COMPOSITION OF PANEL

Mr Ken E. Lalo
Mr Philip O'Connor
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 Judicial Committee took into consideration all documents presented in the case file, as also made available to the PR.

2.3 Oral hearing: Not requested by the PR, 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.

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

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 Alberto Harari

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. Haut De Val (the "**Horse**") participated in CSI5* Estoril (POR) from the 21st to the 23rd of July 2006 (the "**Event**"). The Horse was ridden by Mr Alberto Harari who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 22 July 2006. Analysis of the blood sample no. FEI-0004742 taken from The Horse performed by the approved central laboratory of the FEI, the Laboratoire des Courses Hippiques, France ("**LCH**"), revealed the presence of Phenylbutazone, Oxyphenbutazone and Flunixin (Certificate of Analysis 0004742 dated 7 August 2006). The PR did not request a confirmatory analysis.
- c. Phenylbutazone, Oxyphenbutazone and Flunixin are non steroidal anti-inflammatory drugs (Certificate of Analysis 0004742 dated 7 August 2006) and accordingly are substances, when present together, specified in the first section of the Equine Prohibited List (VR Annex III) as "Doping" Prohibited Substances.

- d. The Judicial Committee is satisfied that the laboratory report reflects that the test was 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 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.
- e. 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, in accordance with EADMCRs Article 10.5.
- f. In his written explanations submitted 6 September 2006 and 26 September 2006, the PR states that he is an architect and was away on a business trip prior to the Event. During his absence the Horse was shod and was accidentally hurt in the sole of the hoof. The groom that attended to the Horse called the veterinarian that administered the Prohibited Substances. The veterinarian did not know that the Horse was due to compete at the Event. According to the PR he was not informed regarding the administration of the Prohibited Substances by either his groom or the veterinarian. The PR further states that the Event was not on his competition schedule and that he decided to take the Horse to the Event at the last minute. The PR agrees that the positive doping is a result of "a deficient communication between my groom, the vet and myself."
- g. A supporting statement from the PR's veterinarian was submitted on 6 September 2006. The veterinarian confirms the PRs' statement stating that the Horse was treated intravenously with the Prohibited Substances on July 17 and 18, a number of days before the start of the Event (that started July 21), for acute inflammation of the sole of the Horse's right hind hoof. The veterinarian further states that the PR was not present during these times and that he did not know that the Horse was due to compete in the coming days.

- h. In deciding the sanctions the Panel considered, on the one hand, the doping violation and types of substances involved as well as the conduct of the PR, his groom and veterinarian and, on the other hand, the PR's amateur "status", the level of the Event and the PR's cooperation in the investigation. The Panel considers that there was gross negligence on the part of the PR.

4.2 Disqualification

As a result of the foregoing, the Judicial Committee has decided to disqualify the horse Haut de Val and the PR from the Event and all medals, points and prizes money won at the Event must be forfeited, in accordance with EADMCRs Article 9.

4.3 Sanctions

As a consequence of the foregoing, the Judicial Committee 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 four (4) 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 1,500.-
- 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 : 9. January 2007

Signature: 