



DECISION of the JUDICIAL COMMITTEE of the FEI

dated 28 February 2007

Positive Medication Case No.: 2006/47

Horse: Finesse 4

FEI Passport No: AUT04637

Person Responsible: Mr Markus Saurugg, AUT

Event: CSI3* Codroipo, ITA 07-09.07.2006

Prohibited Substance: Dexamethasone

1. COMPOSITION OF PANEL

Prof. Dr. Jens Adolphsen
Mr Patrick Boelens
Mr Philip O'Connor

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 by and to the PR.

2.3 Oral hearing: Not requested by the PR

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 Markus Saurugg

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. **Finesse 4** (the "horse") participated in CSI3* Codroipo (ITA) from 7 to 9 July 2006 (the "**Event**"). The Horse was ridden by Mr Markus Saurugg who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 7 July 2006. Analysis of the urine sample FEI-0000276 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 (Certificate of Analysis 0000276 dated 1 August 2006).
- c. The PR has not requested a confirmatory analysis by the deadline which was set on 28 August 2006.
- d. The substance Dexamethasone is an anti-inflammatory corticosteroid acting inter alia on the locomotor system. It is specified in the second section of the Equine Prohibited List (VR Annex III) as a "Medication Class A" Prohibited Substance.
- e. The Judicial Committee is satisfied that the laboratory report reflects that the test 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 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 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.
- g. The Judicial Committee has repeatedly expressed that it is the responsibility of competitors to ensure that their horses do not have any prohibited substances in their system or that such treatments are disclosed prior to the start of the competition and their use is authorized in advance. Under the FEI judicial system, the competitor is responsible for all matters relating to his or her mount, including competing on horses which are "drug free" (or getting advance authorization to a certain specified approved treatment).
- h. In his written explanation dated 19 October 2006, the PR states that he is unable to explain how the substance could be detected in the sample. He further states that the horse was not treated by a veterinarian at the time of the event and during a prior period of approximately 8 months. He would not have entered the show and participated when the horse had not been fit or medically treated.
- i. The PR has not rebutted the presumption of intent in accordance with EADMCRs Article 10.5. He has only stated that he can offer no explanation for the detection of Dexamethasone in the sample.
- j. In deciding the sanctions the Judicial Committee considered, the doping violation and the type of the substance involved.

4.2 Disqualification

As a result of the foregoing, the Judicial Committee has decided to disqualify the horse Finesse 4 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 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 2'000.-**.

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: 28 February 2007

Signature: 