



**DECISION of the JUDICIAL COMMITTEE of the FEI**

**dated 12 March 2007**

**Positive Medication Case No.:** 2006/56

**Horse:** Famir III

**FEI Passport No:** SUI08084

**Person Responsible:** Mr Beat Auer, SUI-NF

**Event:** CAI4-A/CAI2-A/CAI1-A, Warka, Warsaw, POL, 18-20.08.2006

**Prohibited Substance:** Hydroxy-Lidocaine (metabolite of Lidocaine)

**1. COMPOSITION OF PANEL**

Prof. Dr. Jens Adolphsen  
Mr. Philip O'Connor  
Mr. Erik Elstad

**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 21<sup>st</sup> edition, revision effective May 2006, ("**Statutes**"), Arts. 001.6, 057 and 058.

General Regulations ("**GR**"), 21<sup>st</sup> 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**"), 10<sup>th</sup> 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:** Mr. Beat Auer

**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. Famir III (the "**Horse**") participated in CAI4-A/CAI2-A/CAI1-A in Warka, Poland from 18 to 20 August 2006 (the "**Event**"). The Horse was driven by Mr Beat Auer who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 18 August 2006. Analysis of the urine sample no. FEI-0014549 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 Hydroxy-Lidocaine (Certificate of Analysis 0014549 dated 11 September 2006).
- c. The PR has waived his right for a confirmatory analysis with a letter received on 25 October 2006 by the FEI.
- d. The substance Hydroxy-Lidocaine is a metabolite of lidocaine. Lidocaine is a local anaesthetic. It is specified in the second section of the Equine Prohibited List (VR Annex III) as "Medication Class A" Prohibited Substances.
- 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 Hydroxy-Lidocaine. 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 systems 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 (not dated, p. 32 of the file) the PR states that none of his horses had any medical treatment in the last 6 months. The answer how the substance could have come in the horse was an ointment called Essigsaure Tonerde. A member of the team had used this ointment prior to the event to treat a superficial skin problem after consulting the private veterinarian of the team. Nobody had expected the ointment to contain any doping relevant ingredients.
- i. In a letter dated 22 October 2006, Dr. Theiss, the veterinarian of the team, confirmed that the horse was presented to him on the show ground on 17 August 2006. Because there was no need for any treatment no further action was taken then. He confirmed that the ointment Essigsaure Tonerde had been used by a member of the team during the transport. He was unaware that it contained a local anaesthetic. Only after he had a closer look at the ointment he found that it contained the prohibited substance.
- j. The PR has rebutted the presumption of intent in accordance with EADMCRs Article 10.5. The PR himself acted negligently as it was easily visible in the prescription on the tube of the ointment (copy p. 35 of the file) that it contained Lidocaine.
- k. In deciding the sanctions the Judicial Committee considered the doping violation and the type of substance involved.

## **4.2 Disqualification**

As a result of the foregoing, the Judicial Committee has decided to disqualify the horse Famir III 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 three (3) 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 : ..... ..

Signature: ..... ..