



DECISION of the FEI TRIBUNAL

dated 13 July 2007

Positive Medication Case No.: 2006/06

Horse: BOX EMBRUJO

FEI Passport No: UAE02137

Person Responsible: Mr Julien Collange, FRA

Event: CEIYJ2* (80 km) Boudthid (UAE), 17.02.2006

Prohibited Substance:

- (1) Hydroxytriamcinolone acetonide
- (2) Triamcinolone acetonide

1. COMPOSITION OF PANEL

Mr Erik Elstad
Mr Philip O'Connor
Mr Leonidas C. Georgopoulos

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, effective April 2004, ("**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, ("GR") 21st edition, effective 1st January 2005, Arts. 142, 146.2 and 174 and General Regulations, 22nd edition, effective 1 June 2007, Arts. 142, 146 and 174 ("**New**

GR").

Veterinary Regulations ("**VR**"), 9th edition, effective 1st January 2002, revision April 2005, Art. 1013 and Annex IV.

FEI Code of Conduct for the Welfare of the Horse, 2004.

3.2 Persons Responsible: Mr Julien Collange

3.3 Justification for sanction:

GR Art. 146.2: "[A]ny horse found to have a Prohibited Substance in any of its tissues, body fluids or excreta at an event [...] is automatically disqualified, together with the competitor [...] from all competitions at that event, [...] unless the Judicial Committee decides based on the evidence to terminate the proceedings of the case."

Subsequent to the adoption of the FEI Statutes, 22nd edition, effective 15 April 2007, the Judicial Committee is now referred to herein as the "Tribunal".

4. DECISION

4.1 Consideration of the evidence:

- a. Box Embrujo (the "**Horse**") participated in the CEIYJ2* in Boudthid (UAE) on 17 February 2006 ("the **Event**"). The Horse was ridden by Mr Julien Collange who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 17 February 2006. Analysis of the urine sample no. FEI-7725 taken from the Horse was performed by the FEI approved laboratory, the Racing Laboratory of the Hong Kong Jockey Club ("**HKJC**"), and revealed the presence of Hydroxytriamcinolone acetone & Triamcinolone acetone (Certificate of Analysis dated 7 March 2006).
- c. There had been some misunderstanding about the result of the analysis and the PR's request for a confirmatory analysis. The Tribunal finds it unnecessary to comment that further in this decision, but due to this issue, a request for a confirmatory analysis was submitted to the FEI on 12 September 2006 by the PR's representative. The confirmatory analysis was carried out both on urine and blood at the FEI Central Laboratory, Laboratoire des Courses Hippiques ("**LCH**") from 11 to 12 October 2006 under the supervision of Dr Yves Moulard. The identification and opening of the samples was witnessed by Dr Lucien Valloni and his expert, Dr Hamad Alarman, at the request of the PR. The analysis confirmed the presence of triamcinolone

acetone in both urine and blood, and hydroxytriamcinolone acetone in the urine (Counter-Analysis Report dated 12 October 2006).

- d. Both substances are steroid anti-inflammatory drugs acting *inter alia* on the locomotor system, hydroxytriamcinolone acetone being a metabolite of triamcinolone acetone (Certificate of Analysis dated 12 October 2006), and accordingly are Prohibited Substances. The Prohibited Substances are together graded "2" as evidenced by the report from the FEI Medication Sub-Committee ("**MSC**") dated 28 March 2006.
- e. The Tribunal is satisfied that the laboratory reports reflect that the tests were accurately performed in an acceptable method and that the findings of both laboratories are accurate. The 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.
- 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.
- g. In his written explanation dated 16 August 2006 the PR states that he had been working for the Wrsan Stables as an Endurance rider since October 2004. He was riding for Mr Raymond Johnson in France and was travelling between France and the United Arab Emirates (**UAE**) under the instructions of his employer, the Wrsan Stables, which was represented by Dr Marcello Grilo. In October 2005, the PR went to the UAE upon request of his employer with a few horses from the Wrsan Stables which were trained by Mr Raymond Johnson in France. The horses, being under the responsibility of Mr Johnson, were taken care of and ridden by the PR. The PR explains that he never worked for another trainer while being in the UAE.
- h. The day before the "President Cup" for Juniors and Young Riders, on 16 February 2006, Dr Marcello Grilo asked him to ride Box Embrujo which was trained by Mr Khamis al Rumaithi (KAR) also working for Wrsan Stables, as they had no young rider who could participate in the race. The PR states that he did not know the Horse, he had never ridden it, neither taken care of the Horse before. As the request came from Dr Marcello Grilo, Manager of the Wrsan Stables, the PR could not refuse to do so and participated in the race with the Horse in which he finished first.

- i. After the result of the confirmatory analysis was made known to the PR, Dr. Lucien Valloni, representing the PR and the Wrsan Stables, wrote to the FEI that they had made some research to find out more about this case. They had also been in contact with the former veterinarian of the Wrsan Stables, Dr. Marcello Grilo. The research showed that the horse had been examined by Dr Marcello Grilo on 11 February 2006, during a pre race routine physical evaluation. At that time Dr. Grilo found it necessary to perform a local injection of triamcinolone acetonide on both front suspensory ligaments, because of a chronic exostosis on adjacent bone structures. Dr. Marcello Grilo was of the opinion that such medicine would not remain in the body of the horse at the time of the race and that it would help the Horse by giving him comfort during the race, relieving him from any soreness in that area.
- j. Dr Marcello Grilo had assured Dr. Valloni that it was not his intention to by-pass applicable doping regulations. His intention was solely to better assist his patient.
- k. This statement explains why the horse tested positive on the Prohibited Substances. The Tribunal accepts that the PR did not know anything about this treatment and that he participated in the competition upon request of Dr Marcello Grilo. The Tribunal concludes that it was not a deliberate attempt from the PR to affect the performance of the horse.
- l. This case highlights once more the difficulty to address cases in which the rider is not the owner of the horse. This is becoming increasingly problematic in view of the relatively high number of such cases which have been submitted to the FEI Tribunal, most commonly in endurance riding, see Positive Medication Cases 2004/27 and 2005/60.
- m. In order to have a fair and equitable system of dealing with positive medication cases, riders of borrowed (or other than self owned horses) should not stand to benefit from the lack of clarity and certainty sometimes evidenced in these situations in which a horse is given to the custody of the rider only in close proximity to the event.
- n. The current policy of the FEI, as specified in GR Art 142.3, is that the rider is the primary person responsible for the horse ridden at the event. Although, in appropriate circumstances, others may also be responsible, this does not alter the primary responsibility of the rider.
- o. The policy is based on the premise that the rider is the sportsperson who competes and stands to win at an event and is in the best position to ensure proper control over the horse used by him or her at an event. Otherwise, the "blame" may always be transferred to third parties such as stable owners, grooms, veterinarians, trainers or other

unknown third parties.

- p. If a rider is not absolutely and positively convinced that the horse ridden at an international event does not have prohibited substances in its system, the rider should not agree to ride that horse at the event. The rider should assess the risk, by informing himself on the horse conditions and on its previous treatments. If the horse has been treated before the event, the competitor should ask for an elective test in order to check whether the horse is free of any Prohibited Substance. This is in line with the FEI strict liability policy related to doping cases.
- q. In deciding the sanctions the FEI Tribunal considered, on the one hand, the doping violation and types of substances involved as well as the explanation of the PR and of Dr Grilo, former veterinarian of the Wrsan Stables. The treatment of the horse was absolutely unacceptable before a competition over 80 km in order to "comfort [the horse] during the race, relieving him from any soreness in that area". The FEI should consider whether the case should be referred to the appropriate governing veterinarian body in the UAE.
- r. On the other hand, the Tribunal takes into account the PR's age as a Young Rider and the level of the event. The Panel considers that the positive result is sufficient to establish that the PR was negligent by not having ensured that his Horse was competing drug-free at the Event.
- s. The FEI Tribunal also takes into account the administrative delay in rendering the decision.

4.2 Disqualification

As a result of the foregoing, the FEI Tribunal has decided to disqualify the horse BOX EMBRUJO and the PR from the Event and that all medals, points and prize money won at the Event must be forfeited.

4.3 Sanctions

As a consequence of the foregoing, the FEI Tribunal decides to impose on the PR the following sanctions:

- 1) The PR shall be suspended for a period of **(2) two 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 500.-** towards the legal costs of the judicial procedure, and **CHF 750.-** towards the cost of the confirmatory analysis.

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: Counsel of the PR, Dr. Lucien W Valloni

6. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:

Date : 12 July 2007

Signature: [Signature]