



## **DECISION of the FEI TRIBUNAL**

**dated 20 July 2007**

**Positive Medication Case No.:** 2005/29

**Horse:** CANTURO

**FEI Passport No:** GER19504

**Person Responsible:** Mr Bernardo Alves, BRA

**Event:** CSI4\* Madrid, ESP, 26-29.05.2005

**Prohibited Substances:** Gabapentin

### **1. COMPOSITION OF PANEL**

Mr. Leonidas C. Georgopoulos  
Mr Ken E. Lalo  
Dr Jens Adolphsen

### **2. SUMMARY OF THE FACTS**

**2.1 Memorandum of case:** by Legal Department.

**2.2 Summary information provided by Person Responsible (PR):** The Tribunal took into consideration all documents presented in the case file, as also made available by and to the PR, through his legal representative.

**2.3 Oral hearing:** None; by correspondence.

### **3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT**

#### **3.1 Articles of the Statutes/General Regulations/Veterinary Regulations which are applicable or have been infringed:**

Statutes 21<sup>st</sup> edition, effective 21 April 2004, ("**Statutes**"), Arts. 001.6, 057 and 058.

General Regulations ("**GR**"), 21<sup>st</sup> edition, effective 1 January 2005, Arts. 142, 146.2.

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

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

**3.2 Person Responsible:** Mr Bernardo Alves

**3.3 Justification for sanction:**

GR Art. 146.2: "Any 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, 22<sup>nd</sup> 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. Canturo (the "**Horse**") participated in the CSI4\* Madrid (ESP) from 26 to 29 May 2005 (the "**Event**"). The Horse was ridden by Mr Bernardo Alves who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 28 May 2005. Analysis of the urine sample no FEI 6258 taken from the Horse performed by the approved central laboratory of the FEI, the Laboratoire des Courses Hippiques, France ("**LCH**"), allegedly revealed the presence of gabapentin (Certificate of Analysis FEI-6258 dated 30 June 2005).
- c. A confirmatory analysis was requested by the PR and performed by the FEI's approved reference laboratory, the USEF Equine Drug Testing and Research Laboratory ("**EDTRL**") on 5 September 2005. Analysis of the urine allegedly confirmed the presence of gabapentin (Test Report dated 22 September 2005).
- d. Gabapentin is a human anti-epileptic drug which is also used for the control of neuropathic pain, and acts inter alia on the nervous system. Gabapentin was graded "1" by the former Medication Sub-Committee of the FEI ("**MSC**") as evidenced by the MSC Report dated 10 October 2005.
- e. The PR contested the accuracy of the testing methods, of the test results and of the positive findings, submitting detailed scientific experts' statements to support his argumentation.

- f. The FEI Legal Department, after lengthy investigation, is of the opinion that both laboratories have reported the same prohibited substance. Nevertheless, the FEI Legal Department recognises certain inconsistencies which arose in this case from the use of different names to annotate molecules ostensibly found by the two laboratories.
- g. The FEI Legal Department is also confronted with certain unresolved questions relating to the test results, despite the extensive and detailed scientific experts' statements that have been submitted by both parties.
- h. Indeed, the case file contains lengthy evidence provided by numerous experts including, for the FEI, Dr. Yves Bonnaire, LCH Director, Dr. George Maylin, Associate Professor at Cornell University, Christopher Nattrass, then Laboratory Manager at EDTRL, and Dr. Edward Houghton, Professor at Nottingham Trent University and Non-Executive Director at HFL laboratory; and for the PR, Dr. Thomas Tobin, Veterinarian, Pharmacologist and Toxicologist, Professor at the University of Kentucky, Dr. Andreas Lehner at the University of Kentucky, and Dr. Laurent Bigler at the University of Zurich.
- i. Despite the opinions provided by these experts, questions nevertheless remain concerning the choice of ions used by EDTRL in its confirmatory analysis (Houghton report) as it relates to the initial LCH analysis, and whether all assumptions made by each of the experts in their reports are justified or material to the outcome.
- j. Considering that the case would therefore need further lengthy assessment, through additional testimonies and/or hearings, the time which elapsed since the Event and the time and resources that would still be required to present further testimonies and pursue this case, combined with the evidentiary difficulties, the FEI Legal Department recommended to the Tribunal by a letter dated 26 June 2007 not to pursue the case further.
- k. The FEI Tribunal considered the very significant research and submissions provided by the PR and by the FEI Legal Department; the conflicting opinions of the experts that lead at this stage and without further evidence to inconclusive evidence regarding the evidentiary weight of the test results; the time elapsed since the Event and estimated time to reach a decision; the nature of the alleged offence and of the evidence available; deciding in equity that in both parties' interest that the case should be closed and



no further action should be taken.

- I. Under these circumstances, the Tribunal considers that each party should bear its own costs and that the FEI would cover the cost of the B sample confirmatory analysis.

**5. DECISION TO BE FORWARDED TO:**

**5.1 The Person Responsible:** Yes

**5.2 The President of the NF of the Person Responsible:** Yes

**5.3 The President of the Organising Committee of the event through his NF:** Yes

**5.4 Any other:** The person responsible representatives

**THE SECRETARY GENERAL OR HIS REPRESENTATIVE:**

Date : 20 July 2007

Signature: 