



## **DECISION of the FEI TRIBUNAL**

**dated July 13 2007**

**Positive Medication Case No.:** 2007/03

**Horse:** LITTLE JOE FOX

**FEI Passport No:** NZL00537

**Person Responsible:** Mr Adam Zakeriea Al Haj, SUD

**Competitor (minor):** Hussain Ali Al Marzouqi, UAE

**Event:** CEIYJ2\* 100 Km Bou Thib, UAE 02.12.2006

**Prohibited Substance:** Boldenone

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

Mr. Ken E. Lalo  
Mr. Philip O'Connor  
Mr. Pierre Ketterer

### **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.

**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 21<sup>st</sup> edition, revision effective May 2006, ("**Statutes**"), Arts. 001.6, 057 and 058 and Statutes 22<sup>nd</sup> edition, effective 15 April 2007, ("**New Statutes**"), Arts. 1.4, 34 and 37.

Internal Regulations of the FEI Tribunal, effective 15 April 2007.

General Regulations, 21<sup>st</sup> edition, effective 1 June 2006, Arts. 142, 146.1 and 174 and General Regulations, 22<sup>nd</sup> edition, effective 1 June 2007, Arts. 142, 146.1 and 174 ("**New GR**").

The Equine Anti-Doping and Medication Rules ("**EADMCRs**"), effective 1 June 2006.

Veterinary Regulations ("**VR**"), 10<sup>th</sup> edition, effective 1<sup>st</sup> 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 Adam Zakeriea Al Haj, SUD

**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."

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. LITTLE JOE FOX (the "**Horse**") participated in CEIYJ 2\* 100 Km Bou Thib, UAE, on 2 December 2006 (the "**Event**"). The Horse was ridden by Mr Hussain Ali Al Marzouqi, UAE, (the "**Competitor**"), who was a 16-years old minor at the time of the Event, as indicated on the FEI's riders' database.
- b. The Horse was selected for sampling on 2 December 2006. Analysis of the blood sample no. 0019268 taken from the Horse, performed by the approved laboratory of the Hong Kong Jockey Club ("**HKJC**"), did not reveal the presence of the prohibited substance, but analysis of the urine sample no. 0019268 taken from the Horse, performed by the same laboratory did reveal the presence of Boldenone (Test Report dated 19 December 2006). In the FEI Veterinary Department's Statement of January 2007, Dr Frits Sluyter, Head of the FEI Veterinary Department, comments that "[t]he blood sample tested negative for the substance, which is normal as substances remain much longer detectable in urine as compared to blood". The Tribunal accepts that the positive urine sample constitutes a positive "A" sample.



- c. On 8 February 2007, the PR (defined below) submitted a request for a confirmatory analysis. The confirmatory analysis was carried out on 28 February 2007 on the confirmatory urine sample at HKJC and was witnessed by David Ip, Manager Security Operations, at the request of HKJC. It confirmed the presence of Boldenone (Test Report dated 28 February 2007).
- d. Boldenone is a long acting anabolic steroid (Dr Sluyter comment appearing in the FEI Veterinary Department's Statement of 5 March 2007) and accordingly is a "Doping" Prohibited Substance, as specified in the first section of the Equine Prohibited List (VR Annex III). In the FEI Veterinary Department's Statement of January 2007, Dr Sluyter comments that "Boldenone has a long-acting anabolic effect. Should not be used in competition horses which are subject to possible testing."
- e. By a letter dated 24 January 2007 the Secretary General of the UAE NF informed the FEI that the person responsible for the Competitor was Mr. Salem Rashed Bin Ghadaier, the Manager of the FAZAA Stables, who attested to his responsibility for the Horse. By a letter received by the FEI on 8 February 2007, Dr Bryant of the UAE Equestrian and Racing Federation informed the FEI that in fact Mr Adam Zakariea (Al Haj) was the person responsible (the "**PR**"). The PR, originally from Sudan, worked as a foreman at the same stable and apparently took care of the Horse for some three to four years.
- f. The FEI did not contest the nomination of Mr Zakariea as the person responsible in this case, despite its timing and the fact that a previous person was nominated as a person responsible. As a result and since all notifications and processes were conducted vis-à-vis the PR and not also vis-à-vis the Competitor's parents or another adult associated with the Competitor at the Event, the Tribunal accepts that the Mr Zakariea is the person responsible in accordance with GR Article 142.4. The Tribunal notes that the 22<sup>nd</sup> Edition of GR Article 142.4 effective 1 June 2007 provides further clarification in this matter, clarifying the responsibility of competitors who are minors, detailing the timing of nomination of a persons responsible and allowing to view either parent of a competitor as the person responsible if one is not timely nominated.
- g. The Tribunal is satisfied that the laboratory test reports dated 19 December 2006 and 28 February 2007 reflect that the tests were accurately performed in an acceptable method and that the findings of HKJC are accurate. The Tribunal is satisfied that the test results show the presence of Boldenone. 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.

- h. 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.
- i. The PR accepted full responsibility for the positive test results, by a letter dated 6 February 2007, by a letter faxed to the FEI on 19 March 2007, in documentation provided to the FEI on 2 April 2007 and by a letter dated 29 April 2007 (together, the "**PR's Explanation**").
- j. In the PR's Explanation, the PR stated that he took care of the Horse at all relevant times and administered to the Horse a medication called "The Enhancer" which was given to him by a friend whom he trusted when he confided in that friend that the Horse was not eating well. According to the PR's Explanation, the PR did not consult nor advise the Competitor, the stable's veterinarian or anyone else about the medication. According to the PR's Explanation, the medication was given to the Horse orally twice a day before the start of the competition season and some 6 weeks to 2 months before the Event.
- k. In the PR's Explanation, the PR further referred to the fact that this is his first doping case. The Tribunal does not give much value to this matter since the PR is not a rider nor trainer or veterinarian and, therefore, was not necessarily exposed to similar cases. The PR's sole involvement in the present case is the fact that he was nominated as the person responsible for a horse of a minor competitor. The Tribunal notes that in large riding establishments there may be other such potential persons responsible and this fact should not allow the imposition of meaningless sanctions in doping cases.
- l. The FEI was also provided with a written statement from the Horse's veterinarian, faxed to the FEI on March 19 2007, in which Dr Moussa stated that he has not administered any anabolic steroid to the Horse.
- m. Dr Sluyter indicated, in a statement dated 19 April 2007, that "[c]learly there are feed additives and other injectable products containing boldenone...". Dr Sluyter further stated that the Enhancer, a product for muscle building, also contains "hormone precursors that supposedly stimulate the endogenous production of a.o. testosterone. Testosterone can possibly be converted into boldenone in the body." He added that "[w]hen boldenone is given for an extended period it can cause the horse to test positive for a long time", concluding that "[i]t is not possible to state by which route



boldenone entered the horse's system, based on the detection results."

- n. The Tribunal is satisfied of the possible causal link between the administration of the "Enhancer" by the PR and the test results, and the PR and Competitor have, therefore, successfully rebutted the presumption of intent. The Tribunal is not satisfied that the prohibited substance was given to the Horse for legitimate therapeutic reasons, but is satisfied that the Competitor did not know of the administration of the product to the Horse. The Tribunal considers that the positive result is sufficient to establish that despite the explanations given, the PR was grossly negligent and that the Competitor was negligent by not having ensured that the Horse was competing drug-free at the Event.
- o. In deciding the sanctions the Tribunal considers, on the one hand, the doping violation and type of substance involved, the PR's gross negligence and total ignorance of any reasonable processes in the administration of the substance without informing the veterinarian, Competitor or any relevant third party and the Competitor's (who competed at some eight FEI CEI 2\* and 3\* events during 2006) negligence in not better instructing the caretakers of the Horse. In deciding the sanctions the Tribunal further takes note of the fact that sanctioning a PR that has no direct relationship to international shows may provide meaningless sanctions and therefore requires that the Competitor "guarantees" the PR's adherence to this decision.

#### **4.2 Disqualification**

As a result of the foregoing, the FEI Tribunal has decided to disqualify the Horse LITTLE JOE FOX and the Competitor 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 FEI Tribunal decides to impose the following sanctions, in accordance with GR Article 174 and EADMCRs Article 10:

- 1) The Competitor shall be suspended for a period of **(1) one month** 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 shall be suspended for a period of **(3) three 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.
- 3) The PR is fined **CHF 2'500.-**. If the PR does not timely pay the fine, the Competitor shall become obligated for such amount.
- 4) The PR shall contribute **CHF 1'000.-** towards the legal costs of the judicial procedure, and **CHF 750.-** towards the cost of the confirmatory analysis. If the PR does not timely pay these costs, the Competitor shall become obligated for such amounts.

**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: 13 July 2007

Signature: [Signature]