



## **DECISION of the FEI TRIBUNAL**

**dated 20 December 2010**

**Positive Doping Case No.:** 2010/06

**Horse:** GRP DOFOFA GHANTOOT

**FEI Passport No:** KSA 102UD63

**Person Responsible:** Khaled Al Bawardi / KSA

**Event:** CEI2\*, 120km, Riyadh, KSA

**Prohibited Substance:** Nordazepam

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

Mr. Erik Elstad  
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 FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file, as also made available by and to the PR.

**2.3 Oral hearing:** none

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

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

Statutes 22<sup>nd</sup> edition, effective 15 April 2007, updated 19 November 2009 ("**Statutes**"), Arts. 1.4, 34 and 37.

General Regulations, 23<sup>rd</sup> edition, 1 January 2009, updated 1 January 2010, Arts. 118, 143.1 and 169 ("**GR**").

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

The Equine Anti-Doping and Medication Control Rules ("**EADMCR**"), 1<sup>st</sup> edition 1 June 2006, updated with modifications by the General Assembly, effective 1 June 2007 and with modifications approved by the Bureau, effective 10 April 2008.

Veterinary Regulations ("**VR**"), 11<sup>th</sup> edition, effective 1 January 2009, Art. 1013 and seq. and Annex II (the "Equine Prohibited List").

FEI Code of Conduct for the Welfare of the Horse.

**3.2 Person Responsible:** Khaled Al Bawardi

**3.3 Justification for sanction:**

GR Art. 143.1: "Medication Control and Anti-Doping provisions are stated in the Anti-Doping Rules for Human Athletes, in conjunction with The World Anti-Doping Code, and in the Equine Anti-Doping and Medication Control Rules."

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 Factual Background**

1. GRP DOFOFA GHANTOOT (the "**Horse**") participated at the CEI2\*, 120km, Riyadh, KSA, on 25 February 2010 (the "**Event**") in the discipline of Endurance. The Horse was ridden by Khaled Al Bawardi, who is the Person Responsible in accordance with GRs Art. 118 (the "**PR**").
2. The Horse was selected for sampling on 25 February 2010.
3. Analysis of the blood sample no. FEI-0115854 taken from the Horse at the Event was performed at the FEI approved laboratory, the Hong Kong Jockey Club Racing Laboratory ("HKJC"), by Francis Ping Woon Tang, Racing Chemist, under the supervision of Terence See Ming WAN, Chief Racing Chemist (Head of Racing Laboratory). The analysis revealed the presence of Nordazepam (Test Report dated 11 March 2010).
4. The Prohibited Substance detected is Nordazepam. Nordazepam is a member of the benzodiazepine family. It is a tranquilizer which is used as sedative and anti-anxiety agent. Nordazepam is classified as a *Doping* Prohibited Substance. Therefore, the rule

violation in this case is an *Anti-Doping* rule violation.

5. No request had been made to administer Nordazepam to the Horse, and no medication form had been submitted for this substance.

#### **4.2 The Proceedings**

6. The presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the consequences implicated, were officially notified to the PR by the FEI Legal Department on 29 March 2010. The Notification Letter included notice that the PR was provisionally suspended and granted him the opportunity to be heard at a preliminary hearing before the FEI Tribunal.
7. The PR did not request a Preliminary Hearing.

#### **4.3 The B-Sample Analysis**

8. Together with the Notification Letter of 29 March 2010, the PR also received notice that he was entitled to the performance of a B-Sample confirmatory analysis on the positive sample. The PR was also informed of his right to attend or be represented at the identification and opening of the B-Sample.
9. The PR declined to exercise his right to have the B-Sample confirmatory analysis performed.

#### **4.4 The Further Proceedings**

10. The PR did not submit any explanations or evidence for the positive test result, and did not otherwise participate in the procedure.
11. Following request by the FEI, the KSA NF confirmed on 7 June 2010 that the PR had received all the documents related to the case at hand. The KSA NF further explained that the PR accepted the case, and that they would make sure that the PR understood that any explanation would have to be provided in the newly set deadline of 14 June 2010. Further, that in case the PR would not send any explanations within the deadline, the case may be submitted "to the FEI Tribunal for consideration and decision based on the currently available documents".
12. The case was submitted to the FEI Tribunal on 25 November 2010. On 9 December 2010, the FEI sent a letter to both the FEI Tribunal and the PR, requesting that the maximum period of ineligibility of two (2) years be imposed on the PR. The FEI

argued that the sanction requested was adequate in light of the fact that the PR had not provided any explanations or evidence in the course of the entire procedure. The PR was invited to respond to the request until 17 December 2010. The PR did not respond in the given deadline.

#### **4.5 Jurisdiction**

13. The Tribunal has jurisdiction over this matter pursuant to the Statutes, GRs and EADMCR.

#### **4.6 The Person Responsible**

14. The PR is the Person Responsible for the Horse, in accordance with Article 118 GRs, as he was the rider of the Horse at the Event.

#### **4.7 The Decision**

15. The Tribunal is satisfied that the laboratory report relating to the A-Sample reflects that the analytical tests were performed in an acceptable manner and that the findings of the HKJC are accurate. The FEI Tribunal is satisfied that the test results evidence the presence of Nordazepam, which is a Prohibited Substance, in the sample taken from the Horse at the Event. The PR did not contest the accuracy of the test results or the positive findings.
16. The FEI has thus sufficiently proven the objective elements of an offence in accordance with Article 3 of the EADMCRs. The Prohibited Substance found in the samples is classified as a "Doping" Prohibited Substance.
17. In Doping and Medication cases, a strict liability principle applies as described in Article 2.1.1 of the EADMCRs. Once a positive case has been proven by the FEI, the PR has the burden of proof to show that he bears "No Fault or No Negligence" for the positive findings as set forth in Article 10.5.1 of the EADMCRs, or "No Significant Fault or No Significant Negligence," as set forth in Article 10.5.2 of the EADMCRs.
18. The Tribunal takes note of the entire lack of involvement of the PR in the case at hand. The Tribunal acknowledges that the PR had received the relevant documents and information through the KSA NF, and would therefore have been in a position to explain and defend his case. Despite the above, the PR has not provided any explanation as to how the Prohibited Substance entered the Horse's body. Conclusively, the Tribunal is also not in a position to determine the PR's fault or negligence for the rule

violation, and the PR therefore cannot benefit from any elimination or reduction of the applicable sanction under Article 10.5 of the EADMCRs.

19. When deciding sanctions in this case, the Tribunal takes into account that the PR has completely ignored the FEI Rules on Doping, EADMCRs, and the authority of the FEI. Without any response or explanation from the PR, the Tribunal must assume that in the case at hand, there has been a deliberate attempt to enhance the performance of the Horse by using a Prohibited Substance. There are therefore no mitigating circumstances to take into consideration.
20. According to Article 9 EADMCR, disqualification from the Events is automatic when there is a positive finding.
21. According to Article 173.4 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.

#### **4.8 Disqualification**

22. For the reasons set forth above, the FEI Tribunal is disqualifying the Horse and the PR from the Event and all medals, points and prize money won at the Event must be forfeited, in accordance with Article 9 EADMCR.

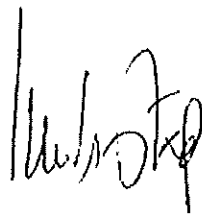
#### **4.9 Sanctions**

23. The FEI Tribunal has decided to impose the following sanctions on the PR, in accordance with Article 169 GRS and Article 10 EADMCR:
  - 1) The PR shall be suspended for a period of **24 (twenty-four) months** to be effective immediately and without further notice from the date of the notification. The period of Provisional Suspension, effective from 29 March 2010 to 20 December 2010, shall be credited against the Period of Ineligibility imposed in this decision. Therefore, the PR shall be ineligible to participate in FEI activities through 28 March 2012.
  - 2) The PR is fined **CHF 500.-**.
  - 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**

**FOR THE PANEL**



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**THE CHAIRMAN** Erik Elstad