



**DECISION of the FEI TRIBUNAL**

**dated 27/09/2011**

**Positive Doping Case No.:** 2010/07

**Horse:** KALI DI VILLA EMILIA

**FEI Passport No:** 102XS90

**Person Responsible:** Lorenzo Attili

**Event:** CSI3\*, Arezzo, ITA

**Prohibited Substances:** Fluphenazine

**1. COMPOSITION OF PANEL**

Mr. Erik Elstad (single panel member)

**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, 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 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:** Lorenzo Attili

### **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. KALI DI VILLA EMILIA (the "**Horse**"), participated at the CSI3\*, in Arezzo, Italy, from 30 March to 4 April 2010 (the "**Event**") in the discipline of Jumping. The Horse was ridden by Lorenzo Attili, who is the Person Responsible in accordance with GRs Article 118 (the "**PR**").
2. The Horse was selected for sampling on 1 April 2010.
3. Analysis of the blood sample no. FEI-115411 taken from the Horse at the Event was performed at the FEI approved laboratory, the HFL Sport Science ("**HFL**"), by Ms. Ruth Schiller, Senior Scientist, under the supervision of Mr. Steve Maynard, Director of the HFL. The analysis revealed the presence of Fluphenazine (Certificate of Analysis dated 16 April 2010).
4. The Prohibited Substance detected is Fluphenazine. Fluphenazine is a long acting tranquilizer that can modify behaviour, leading to a performance advantage. Fluphenazine can have unpredictable, life threatening side effects. Fluphenazine is classified as a "Prohibited Substance" under the Equine Prohibited List (VR Annex II, the

"Equine Prohibited List"), in the class of "Doping". Therefore, the finding of Fluphenazine in the Horse's sample constitutes an *Anti-Doping* rule violation.

5. No request had been made to administer Fluphenazine 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 26 April 2010.
7. 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.
8. The PR did not request a Preliminary Hearing.

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

9. Together with the Notification Letter of 26 April 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.
10. The PR declined to exercise his right to have the B-Sample confirmatory analysis performed.

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

11. On 11 May 2010, the PR, through his counsel, Mr. Vincenzo Giardino, explained that he accepted the test results. That in January 2010, the veterinarian of the Horse, Mr. Giuseppe Bassetti, had suggested administering therapy to the Horse based on "Moditen Depot". That the Horse underwent the therapy until 15 February 2010, when it was taken to the stable of Mr. Riccardo Boricchi, in order for the PR to start competing with it. That nobody had informed the PR of the fact that the Horse had undergone the therapy.
12. On 29 June 2010, the PR submitted statements by Mr. Bassetti, by the owner of the Horse's stable, Mr. Boricchi, and the groom of the Horse, Mr. Daniel Longu Costantino. Dr. Bassetti explained that he had prescribed a "moditen depot therapy" for the Horse, because of its "behavioral problems". Dr. Bassetti further explained that he had specified that the treatment would be considered doping, but

that he had not told the PR about the Horse's treatment. Mr. Boricchi confirmed that the moditen depot therapy had been prescribed upon his request. That the Horse had been brought back after the therapy to his stable on 15 February 2010, and had started competing with the PR by the end of February/beginning of March 2010. Mr. Boricchi further stated that he had not informed either the owner of the Horse, Ms. Cecconi, or the PR, that the Horse had undergone the therapy. Mr. Costantino explained that he had been informed of the Horse's therapy by Mr. Boricchi and Mr. Bassetti. Further that he had not informed the PR of those circumstances. The PR himself did not provide any statement or explanation, but requested a final hearing.

13. By letter of 15 October 2010, the FEI addressed various questions to the PR about the Horse, its owner and the details of the therapy the Horse underwent. The FEI also requested the veterinary records of the Horse.
14. By letter of 30 November 2010, counsel for the PR explained that the treatment had consisted of one intramuscular injection administered twice, once on 24 January 2010 and once on 1 February 2010. Counsel further stated that the PR was not in possession of the Horse's veterinary records.
15. The FEI replied on 30 November 2010 to the PR's submission. The FEI argued that the PR had submitted very little information about the details of the treatment. That it could be concluded however from various internet sources that moditen contains Fluphenazine. That insofar as a moditen "depot" therapy had been applied to the Horse, the conclusion could be drawn that the effects of the therapy were long-lasting, and that it was therefore likely that a certain amount of Fluphenazine would be found in the Horse's sample even after completion of the therapy itself. The FEI therefore accepted that the PR had established - by a balance of probabilities - how the Prohibited Substance had entered the Horse's system. With regards to the question of Fault and/or Negligence for the rule violation, the FEI contended that the PR's argument - supported by the statements of Dr. Bassetti, Mr. Boricchi and by Mr. Costantino - that he was not informed about the Moditen Depot therapy applied to the Horse - did not release him from his responsibility and duties as rider and PR. The FEI referred to Article 2.1.1 of the EADMC Rules and pointed out that in light of that stipulation, it was the responsibility of competitors to inform themselves of all relevant rules to compete in FEI events and of any substances administered to horses which are destined for participation in international events and to ensure that such horses do not have any Prohibited Substances in their systems.
16. In response to the FEI submission, counsel for the PR reiterated on 6 December 2010 that the PR had not been informed about the therapy administered to the Horse and counsel further contended

that the PR, being a professional rider, had asked about the state of health of the Horse before it had been entered into the show.

17. By email of 12 January 2011, counsel for the PR submitted a medical certificate for the PR and informed the FEI that the PR had been diagnosed with leukemia and was therefore undergoing chemotherapy treatments through the end of March 2011. Counsel for the PR therefore requested that the hearing be postponed during such medical treatment. .
18. The FEI agreed to a postponement of the hearing. Given the circumstances, the FEI submitted the case to the FEI Tribunal, asking the Tribunal panel to consider the lifting of the Provisional Suspension of the PR due to his health condition.
19. By Preliminary Decision of 24 January 2011, the Tribunal panel lifted the Provisional Suspension as of the following day.
20. By email of 9 September 2011, counsel for the PR informed the FEI that the PR had sadly passed away at the end of August 2011.

#### **4.5 Jurisdiction**

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

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

22. 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**

23. 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 HFL are accurate. The FEI Tribunal is satisfied that the test results evidence the presence of Fluphenazine, 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 of the A-Sample, and did not request analysis of the B-Sample.
24. 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 sample is classified as a "Doping" Prohibited Substance.
25. However, in light of the fact that the PR has tragically passed away prior to the finalisation of the case, the Tribunal is hereby closing the proceedings without imposing any sanctions on the PR.

26. According to Article 9 EADMCR, disqualification from the Event is automatic when there is a positive finding.

27. 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. With respect to the PR, as his counsel has been acting as his representative throughout this proceeding, the Tribunal considers that notice to counsel shall be deemed notice to the Person Responsible for purposes of written notification of this decision.

#### **4.8 Disqualification**

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

#### **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:** No

**FOR THE PANEL**



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**THE CHAIRMAN Erik Elstad**