



DECISION of the FEI TRIBUNAL

dated 21 August 2009

Positive Medication Case No.: 2009/07

Horse: SKYROS DE PEYROLS

FEI Passport No: FRA 43812

Person Responsible: Abdulla Thani Bin Huzaim, UAE

Event: CEI1* 119km, Dubai, UAE

Prohibited Substance: Etorphine

1. COMPOSITION OF PANEL

Mr Philip O'Connor
Prof. Dr. Jens Adolphsen
Mr. Patrick A. Boelens

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 22nd edition, revision effective 15 April 2007, updated 21 November 2008 ("**Statutes**"), Arts. 1.4, 34 and 37.

General Regulations, 23rd edition, effective 1 January 2009, Arts. 118, 143.1 and 169 ("**GRs**").

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

The Equine Anti-Doping and Medication Control Rules ("**EADMCR**"), 1st 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**"), 11th 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: Abdulla Thani Bin Huzaim

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. SKYROS DE PEYROLS (the "**Horse**") participated at CEI1* 119km, in Dubai, UAE, on 21 February 2009 (the "**Event**"), in the discipline of Endurance. The Horse was ridden by Abdulla Thani Bin Huzaim, who is the Person Responsible in accordance with Article 118 GRs (the "**PR**").
2. The Horse was selected for sampling on 21 February 2009.
3. Analysis of the urine sample no. FEI-0092898 taken from the Horse was performed at the FEI approved laboratory, Hong Kong Jockey Club Racing Laboratory ("**HKJC**"), by Mr. April Sum Yee Wong, Chemist, under the supervision of Mr. Terence See Ming WAN, Head of the HKJC. The analysis revealed the presence of Etorphine (Test Report no. 09-0266 dated 04 March 2009).
4. Therefore, the Prohibited Substance detected is Etorphine. Etorphine is a highly potent opioid analgesic. Etorphine is a stimulant in small doses and is also a neuroleptanalgesic. Etorphine is classified as "Prohibited Substance" under the Equine Prohibited List (VR Annex

II, the "Equine Prohibited List"), in the class of "*Doping*".

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

4.2 The Proceedings

6. The presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the consequences involved, were duly notified to the PR on 24 March 2009.
7. The notification of 24 March 2009 included notice that the Person Responsible was provisionally suspended and granted the Person Responsible the opportunity to be heard at a Preliminary Hearing before the FEI Tribunal.
8. On 1 April 2009, the United Arab Emirates Equestrian and Racing Federation informed the FEI that the PR did not request a Preliminary Hearing.

4.3 The B-Sample Analysis

9. Together with the Notification Letter of 24 March 2009, the PR also received notice that he was entitled to the performance of a B-Sample confirmatory analysis on the positive A-sample. The PR was also informed of his right to attend or be represented at the identification and opening of the B-Sample.
10. On 1 April 2009, the United Arab Emirates Equestrian and Racing Federation, on behalf of the PR, informed the FEI that the PR declined to exercise his right to have the B-Sample confirmatory analysis performed.

4.4 The further proceedings

11. After an extension of time to submit his explanations, the PR, on 28 April 2009, submitted his written explanations to the FEI. In his submission, the PR claimed that he had ridden for the stables many times previously and that he did not know, and that he had no reason to believe, that the Horse would have a Prohibited Substance in its system. Further, that he maintained a relationship of trust with the stables and that he had accepted the ride in good faith.
12. The PR also submitted a statement by Mr. Fadel Mathil in his capacity as assistant trainer/foreman dated 16 April 2009, which merely denies the administration of any substance and any request to a third party to do so. He stated that he could not offer any explanation for the presence of the Prohibited Substance, but that he was confident that his own stable had not administered any

Prohibited Substances to the Horse.

13. The PR submitted on 30 June 2009 his reply to an FEI Questionnaire and therein stated:

“Due to the long history of riding for the stable I neglected my responsibilities for asking as had never had any problem in the past and had ridden many, many times for the stable.”

4.5 Jurisdiction

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

4.6 The Person Responsible

15. 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

16. 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 Etorphine, 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 finding.
17. The FEI has thus sufficiently proven the objective elements of an offence in accordance with Article 3 EADMCR. The Prohibited Substance is classified as a “Doping” Prohibited Substance.
18. In Doping and Medication cases, there is strict liability as described in Article 2.1.1 EADMCR. When 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 EADMCR, or “No Significant Fault or No Significant Negligence,” as set forth in Article 10.5.2 EADMCR. No such evidence was offered.
19. The PR offered no evidence as to any stipulation or requirement by him to the persons caring for the Horse and for its welfare, specifying that it must be free from substances that are in contravention of formal FEI requirements. It is not apparent that the PR is familiar with some or indeed with the all important FEI Code of Conduct for the Welfare of the Horse (which is incorporated within the Rules for Endurance Events). The first stipulation therein contains the following:

"At all stages during the preparation and training of competition horses, welfare must take precedence over all other demands"

20. Competitors riding in Endurance Events must accept and apply this requirement without reservation. The Tribunal is of the view that the PR failed in this regard.
21. The Tribunal has repeatedly expressed the view that it is the responsibility of competitors to inform themselves of all 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.
22. According to Article 9 EADMCR, disqualification from the event is automatic when there is a positive finding.
23. 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

24. For the reasons set forth above, the FEI Tribunal is disqualifying 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

25. 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 **ten (10) months**, to be effective from the commencement of the Provisional Suspension herein, which is 24 March 2009, without further notification.
 - 2) The PR is fined **CHF 1.500.-**.
 - 3) The PR shall contribute **CHF 1.500.-** 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



THE CHAIRMAN Mr Philip O'Connor