DECISION of the FEI TRIBUNAL

dated 4 November 2009

Positive Medication Case No.: 2009/09

Horse: JHELAM **FEI Passport No:** BRN40014

Person Responsible: Ghazi Mohd Al Doseri

Event: CEI3* 120 km, Sakhir (BRN)

Prohibited Substances: Dexamethasone

1. COMPOSITION OF PANEL

Prof. Dr. Jens Adolphsen
Mr. Philip O'Connor
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.

At the time of the Event General Regulations, 22nd edition, effective 1 June 2007, Arts. 142, 146.1 and 174; as of 1 January 2009: 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: Ghazi Mohd Al Doseri

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. JHELAM (the "**Horse**") participated at the CEI 3* 120km in Sakhir, Bahrain, on 20 December 2008 (the "**Event**"), in the discipline of Endurance. The Horse was ridden by Ghazi Mohd Al Doseri, who is the Person Responsible in accordance with Article 118 GRs (the "**PR**").

2. The Horse was selected for sampling on 20 December 2008.

3. Analysis of the urine sample no. FEI-0076477 taken from the Horse was performed at the FEI approved laboratory, Laboratoire des Courses Hippiques ("**LCH**"), in France, by Ms Sophie Boyer, Senior Analyst, and Mr. Philippe Plou, Chef of the Laboratory, under the supervision of Dr. Yves Bonnaire, Director of the Laboratory. The analysis revealed the presence of Dexamethasone (Certificate of Analysis dated 24 January 2009).

4. Therefore, the Prohibited Substance detected is Dexamethasone. Dexamethasone is a corticosteroid with a wide spectrum of activity. Dexamethasone has anti-inflammatory and anti-allergy effects. This

substance, when present in a Horse's body, is classified as a "Prohibited Substance" under the Equine Prohibited List (VR Annex II, the "Equine Prohibited List"), in the class of "*Medication A*".

5. No request had been made to administer Dexamethasone 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 (Positive Medication Case 2009/FT13).

7. With the notification of 24 March 2009, the PR was offered the opportunity to avoid any *Ineligibility* period by accepting the administrative sanctions set forth below and waiving his right to have the violation considered by the FEI Tribunal:

   1.1 Disqualification from the event and forfeiture of all prizes and prize money won at the event with the horse JHELAM; and

   1.2 Fine of CHF 1000.- and

   1.3 Costs of CHF 500.- or, if a B-sample analysis is requested and the administrative sanction is accepted after the B analysis, CHF 1'250.-.

8. The notification included notice to the PR that, if he declined or failed to accept the administrative sanctions within the deadline of fourteen (14) days as set forth in the notification letter, the case would be submitted to the Tribunal under the usual procedures. .

9. On 1 April 2009, the Bahrain Royal Equestrian & Endurance Federation (BRN-NF) informed the FEI that the PR had chosen not to accept the administrative sanctions offered to him and that the PR would provide explanations within the given time limits.

4.3 The B-Sample Analysis

10. Together with the Notification Letter of 24 March 2009, the PR also received notice that the B-Sample analysis would, upon request by the PR, be performed.

11. The PR declined to exercise his right to have the B-Sample confirmatory analysis performed.

4.4 The further proceedings

12. On 13 April 2009, the PR submitted his written explanations to the FEI. In his submission, the PR sought to explain the positive test result by the fact that he had treated the Horse with the product "Traitement Plaies et Srevassis", purchased in France, for crack heel and skin lesions down the back of the Horse's hoof. While the PR did not submit any labeling or data sheet for the product "Traitement Plaies et Srevassis," he claims that the Prohibited Substance DEXAMETHASONE was not listed as an ingredient in the product. Further, the PR contended that, whereas the information provided with the product suggested stopping the application of the product seven (7) days prior to competition, he had stopped application of the product at least ten (10) days prior to the Event.

13. On 18 April 2009, the FEI submitted a Veterinary Statement by Dr. Andrew Higgins, Member of the FEI Veterinary Committee. In his statement, Dr. Higgins reported that "Google" researches performed by him for the product "Traitement Plaies et Srevassis" did not yield any results. Further, that the PR's explanation of the positive test result would be plausible if the product applied to the Horse indeed contained Dexamethasone, but that no data had been provided in response to this question, and that therefore, it could not be excluded that Dexamethasone was given to the Horse to influence performance, possibly by injection to reduce inflammation and diminish lameness.

14. Upon request of the FEI of 20 April 2009 for further evidence of the administration of the product "Traitement Plaies et Srevassis", on 27 April 2009, the PR submitted a statement by Dr. Khalid A. Hassan, Veterinarian in charge at the Royal Stables of the Royal Endurance Team of Bahrain. In his statement, Dr. Hassan confirmed that on 6 December 2008, the Horse was suffering from symptoms of crack heel and skin lesions down on the back of its hoof, and that, upon recommendation of the Royal Stables, the treatment with "Traitement Plaies et Srevassis" took place from 6 December 2008 to 11 December 2008. Together with the statement of Dr. Hassan, the PR submitted a small white container, on which the following is printed:

    "Pommade Plaies et Crevasses

    Numéro: 630

    Indications: Plaies et crevasses.

    Mode d'emploi:
    Appliquer la pommade en massage, à raison d'une à deux applications par jour."

15. Dr. Hassan's statement and information about the white container was provided to Dr. Andrew Higgins for further consideration of the PR's explanations. Dr Higgins responded that since Dr. Hassan did not refer in his statement to the use of Dexamethasone to treat the Horse, and did not mention the need to apply any corticosteroid (such as Dexamethasone) to the Horse, no conclusions could be drawn. Dr. Higgins further advised that in the absence of any specific ingredient list for the product, he could give no further opinion than already provided with his statement of 18 April 2009.

16. On 2 July 2009, the PR submitted his responses to the FEI Questionnaire provided to him on 19 June 2009. The responses do not contain any detail about administration of the substance Dexamethasone, and do not otherwise address/explain the presence of Dexamethasone in the sample.

4.5 Jurisdiction

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

4.6 The Person Responsible

18. 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

19. 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 Dexamethasone, 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.

20. The FEI has thus sufficiently proven the objective elements of an offence in accordance with Article 3 EADMCR. The Prohibited Substance, when present in a Sample, is classified as a "Medication A" Prohibited Substances.

21. 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.

22. The Tribunal does not accept the fact that the PR is not able to provide an explanation for the presence of the Prohibited Substance in the Horse's system and limits himself to a mere

declaration that he doesn't know.

23. The Tribunal is of the opinion that modern stable management for sport horses includes all reasonable measures to make sure that horses compete without any Prohibited Substances in their system.

24. Accordingly, the Tribunal finds that the PR has acted negligently in performing his duties as competitor and Person Responsible. The strict responsibility of the PR is necessary in the fight against doping and to protect the principles of fair play, equality and promotion of equal and fair conditions in the conduct of international events.

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

26. 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

27. 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

28. The FEI Tribunal has decided to impose the following sanctions on the PR, in accordance with Article 10 EADMCR:

    1) The PR shall be suspended for a period of **4 months** to commence immediately and without further notice from the date of the notification.

    2) The PR is fined **CHF 1000.-**.

    3) The PR shall contribute **CHF 750**- towards the legal costs of the judicial procedure.

5. DECISION TO BE FORWARDED TO:

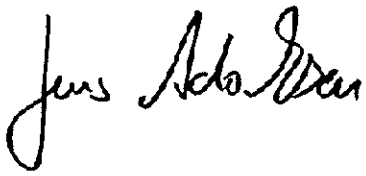
5.1 The person sanctioned: Yes

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



Prof. Dr. Jens Adolphsen