

Abridged Decision

Case 2011/BS14

In the matter of

NIKITA TAVEIRNE

(‘Claimant’)

- and -

FEDERATION EQUESTRE INTERNATIONALE

(‘Respondent’)

(Collectively ‘The Parties’)

Person Responsible: Ms. Nikita Taveirne

Event: CSI3* Moorsele (BEL);
29 September – 2 October 2011

COMPOSITION OF PANEL

Prof Dr. Jens Adolphsen, Chair
Mr. Henrik Arle, Member
Mr. Pierre Ketterer, Member

SUMMARY OF THE FACTS

- 1.1 Submissions and Evidence before the Tribunal:** The FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file and at the hearing.
- 1.2 Memorandum of case: By Legal Department.**
- 1.3 Oral hearing: On 4 July 2012 – by conference call**

Present: Prof. Dr. Jens Adolphsen
Mr. Henrik Arle
Mr. Pierre Ketterer

Ms. Erika Riedl, FEI Tribunal Clerk

For the PR: Ms. Niktia Taveirne, PR
Mr. Philippe Levy, Counsel for the PR
Mr. Hervé Taveirne, Witness

For the FEI: Ms. Carolin Fischer, Legal Counsel

1.4 Factual Background

1. BINGO (the "Horse") participated at the CSI3* in Moorsele, Belgium, from 29 September to 2 October 2011 (the "Event"), in the discipline of Jumping. The Horse was ridden by Ms. Nikita Taveirne, who is the Person Responsible in accordance with Article 118.3 of the GRs (the "PR").
2. The Horse was selected for sampling on 30 September 2011.
3. Analysis of urine and blood sample no. 5509650 taken from the Horse at the Event was performed at the FEI approved laboratory, the Sport Science Ltd. Laboratory (UK) ("HFL"), by Simon Biddle, Senior Scientist, under the supervision of Steve Maynard, Director. The analysis of the urine sample revealed the presence of Morphine (Certificate of Analysis no. 70926 dated 21 October 2011).
4. Upon request by the PR, the B-Sample was analysed. The analysis of the urine confirmed the presence of Morphine (Certificate of Counter Analysis no. 5509650 dated 12 December 2011).
5. The Prohibited Substance detected is Morphine. Morphine is an opiod analgesic, used for pain relief. Morphine is classified as "Banned Substance" under the Equine Prohibited Substances List. Therefore, the positive finding for Morphine in the Horse's sample gives rise to an Anti-Doping Rule Violation under the EAD Rules.

1.5 Abridged Summary of the Proceedings

6. On 8 November 2011, the FEI Legal Department officially

notified the PR, through the Belgian Equestrian Federation ("BEL NF"), of the presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the Consequences implicated. The Notification Letter included notice that the PR was provisionally suspended.

7. Upon request by the PR, a Preliminary Hearing took place on 10 November 2011 and on 24 May 2012, in front of Dr. Adolphsen, Preliminary Hearing Panel, during which the PR was represented by a veterinarian, Dr. José Landuyt, and the FEI by Ms. Carolin Fischer, Legal Counsel. Following the two Preliminary Hearings, the Provisional Suspension was maintained by the Preliminary Hearing Panel.

1.6 The Parties' Submissions (abridged)

8. The Parties agreed during the hearing on 4 July 2012 that a violation of Article 2.1 of the EAD Rules had been established by the FEI.
9. The PR alleged that the positive test results has been caused due to the Horse having been administered contaminated feed, specifically feed called "Culminar Hobby" produced by Culminar. In this context, some Culminar Hobby feed had been analysed by HFL, following agreement between the Parties, and had returned a positive finding for Morphine. In a nutshell, the PR argued that she had established that the Morphine has entered the Horse's system by route of contaminated feed, and that therefore, the requirements for elimination or reduction of the otherwise applicable sanctions under Article 10.5 of the EAD Rules are met.
10. The FEI argued that the PR had not established that the Morphine had entered the Horse's system by means of ingestion of contaminated feed. The FEI accepted that the PR had proven that some feed by Culminar had been contaminated with Morphine, but that there was not sufficient evidence as to whether any of the contaminated feed had been ingested by the Horse.

The Hearing Panel, having heard and considered the Parties' arguments and evidence, and taking into account the two decisions rendered by the FEI Tribunal in cases of alleged contamination (Case 2009/15 – CJS GAI FOREST, Final Tribunal Decision dated 14 September 2010 and Case 2011/BS09 – KARABIL KAIYA HAI, Final Tribunal Decision dated 21 March 2012) has decided not to lift the Provisional Suspension effective as of 8 November 2011 and to maintain it until the Final Decision.

A fully reasoned Decision, including a finding on costs, shall be issued accordingly, pursuant to Article 19.45 of the Internal Regulations of the FEI Tribunal.

This Decision can be appealed before the Court of Arbitration for Sport (CAS) within 30 days of the present notification.

Made by the FEI Tribunal on Friday, 6 July 2012



Prof. Dr. Jens Adolphsen
Chair of the FEI Tribunal