



## **DECISION of the FEI TRIBUNAL**

**dated 22 April 2015**

**Positive Controlled Medication Case No.:** 2014/CM04

**Horse:** QALAO DES MERS

**FEI Passport No:** 103MQ19/FRA

**Person Responsible:** Maxime Livio

**NF/ID:** FRA/10011305

**Event/ID:** WEG-C, Caen (FRA), 2014\_WEG\_0001\_C\_S\_01\_01

**Date:** 27 – 31 August 2014

**Prohibited Substance:** Acepromazine (Hydroxyethylpromazine sulfoxide)

### **I. COMPOSITION OF PANEL**

Mr. Henrik Arle, Chair  
Ms. Randi Haukebø, Panel Member  
Ms. Jane Mulcahy, Panel Member

### **II. SUMMARY OF THE FACTS**

#### **1. Memorandum of case: By Legal Department.**

- 2. Summary information provided by Person Responsible (PR) and the French Equestrian Federation:** The FEI Tribunal duly took into consideration all evidence, submissions and documents in the Case File with regards to the establishment of a violation of the FEI Equine Anti-Doping Rules, as also made available by and to the PR and the French Equestrian Federation.

### III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

#### 1. Articles of the Statutes/Regulations which are applicable or have been infringed:

Statutes 23<sup>rd</sup> edition, effective 29 April 2014 ("Statutes"), Arts. 1.4, 38 and 39.

General Regulations, 23<sup>rd</sup> edition, 1 January 2009, updates effective 1 January 2014, Arts. 118, 143.1, 161, 168 and 169 ("GRs").

Internal Regulations of the FEI Tribunal, 2<sup>nd</sup> edition, 1 January 2012 ("IRs").

FEI Equine Anti-Doping and Controlled Medication Regulations ("EADCMRs"), 1<sup>st</sup> edition, effective 5 April 2010, updates effective 1 January 2014.

FEI Equine Controlled Medication Rules ("ECM Rules"), 1<sup>st</sup> edition, effective 5 April 2010, updates effective 1 January 2014.

Veterinary Regulations ("VRs"), 13<sup>th</sup> edition, effective 1 January 2014, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

#### 2. Person Responsible: Maxime Livio

#### 3. Justification for sanction:

GRs Art. 143.1: "Medication Control and Anti-Doping provisions are stated in the Anti-Doping Rules for Human Athletes (ADRHA), in conjunction with The World Anti-Doping Code, and in the Equine Anti-Doping and Controlled Medication Regulations (EADCM Regulations)."

ECM Rules Art. 2.1.1: "It is each *Person Responsible's* personal duty to ensure that no *Controlled Medication Substance* is present in the *Horse's* body during an *Event* without a valid *Veterinary Form*. *Persons Responsible* are responsible for any *Controlled Medication Substance* found to be present in their *Horse's Samples*, even though their *Support Personnel* will be considered additionally responsible under Articles 2.2 – 2.5 *ECM Rules* where the circumstances so warrant. It is not necessary that intent, fault, negligence or knowing *Use* be demonstrated in order to establish an *Rule* violation under Article 2.1."

ECM Rules Art. 9: "For cases other than those prosecuted under the Administrative Procedure, a violation of these *ECM Rules* in connection with a *Test* in a given *Competition* automatically leads to the *Disqualification* of the result of the *Person Responsible* and Horse combination obtained in that *Competition* with all resulting consequences, including forfeiture of any related medals, points and

prizes. Where applicable, consequences to team are detailed in Article 11.

Even if a Sanction is reduced or eliminated under Article 10 below, such reduction or elimination shall under no circumstances eliminate the automatic Disqualification of Individual Results mandated by this Article 9."

ECM Rules Art. 10.1.1: "At the Olympic Games, Paralympic Games, FEI World Equestrian Games, FEI Championships for Seniors, and Regional Games: An ECM Rule violation occurring during or in connection with an *Event* shall lead to *Disqualification* of all of the *Person Responsible's* individual results obtained in that *Event*, with any and all *Horses* with which the *Person Responsible* competed, with all consequences (and the resulting consequences to teams as provided in Article 11), including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1."

ECM Rules Art. 11.1 "Unless otherwise provided in the FEI Regulations for Equestrian Events at the Olympic and Paralympic Games, the Consequences to teams set forth below will apply.

11.1.1 At the Olympic Games, Paralympic Games, FEI World Equestrian Games, FEI Championships for Seniors, and Regional Games: If a member of a team is found to have committed a violation of these ECM Rules during an Event, the results of the *Person Responsible* will be *Disqualified* in all *Competitions* and the entire team *Disqualified*.

(...)"

## **IV. DECISION**

### **1. Factual Background**

- 1.1 QALAO DES MERS (the "Horse") participated at the World Equestrian Games in Caen, France, from 27 to 31 August 2014 (the "Event"), in the discipline of Eventing. The Horse was ridden by Mr. Maxime Livio who is the Person Responsible in accordance with Article 118.3 of the GRs (the "PR").
- 1.2 Due to the results of the PR at the Event the French Eventing team obtained a qualification for the 2016 Olympic Games.
- 1.3 The Horse was selected for sampling on 29 August 2014, following the dressage test competition of the Eventing Discipline.
- 1.4 Analysis of urine and blood sample no. 5534357 taken from the Horse at the Event was performed at the FEI approved laboratory, the Laboratoire des Courses Hippiques ("LCH") in France by Ms. Isabelle Pottier, Senior Analyst, under the supervision of Dr. Yves Bonnaire,

Director. The analysis of the urine sample revealed the presence of Hydroxyethylpromazine sulfoxide.

- 1.5 Hydroxyethylpromazine sulfoxide is a metabolite of Acepromazine. Acepromazine is a Prohibited Substance under the FEI Equine Prohibited Substances List. Acepromazine is a tranquiliser with sedative effects and is classified as Controlled Medication Substance under the FEI Equine Prohibited Substances List.
- 1.6 No request had been made to administer Acepromazine to the Horse, and no Veterinary Form had been provided by the PR for the use of the substance on the Horse. Therefore, the positive finding for Hydroxyethylpromazine sulfoxide in the Horse's sample gives rise to a Controlled Medication Rule violation under Article 2.1 of the ECM Rules.
- 1.7 Under the ECM Rules, in cases of the presence of Controlled Medication Substances, a PR may elect the so-called "Administrative Procedure" (also referred to as "Fast-Track"), provided that the prerequisites of Article 8.3.1 of the ECM Rules are fulfilled. However, the case at hand is not eligible for the Administrative Procedure insofar as the Event during which the Sample was taken from the Horse was part of the 2014 World Equestrian Games.

## **2. The Further Proceedings**

- 2.1 On 5 September 2014, the FEI officially notified the PR, through the Federation Française d'Equitation ("FRA-NF"), and the owner of the Horse, of the presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the consequences implicated.

## **3. The B-Sample Analysis**

- 3.1 Together with the Notification Letter the PR was also informed that he was entitled: (i) to the performance of a B-Sample confirmatory analysis on the positive sample; (ii) to attend or be represented at the B-Sample analysis; and/or (iii) to request that the B-Sample be analysed in a different laboratory than the A-Sample.
- 3.2 On 18 September 2014, the PR requested the B-Sample analysis to be performed in the same laboratory than the A-Sample analysis. Further, the PR requested that a representative attended the B-Sample analysis on his behalf.
- 3.3 Between 2 and 3 October 2014, the B-Sample analysis was performed on the urine sample, by Maëlle Bouscarel, Senior Analyst, under the supervision of Dr. Yves Bonnaire, Director. The representative of the PR, Dr. Paolo De Iuliis, veterinarian, witnessed the entire B-Sample analysis.

- 3.4 The B-Sample analysis results confirmed the presence of Hydroxyethylpromazine sulfoxide.
- 3.5 On 14 October 2014, the results of the B-Sample analysis were provided to the PR through the FRA-NF, and to the owner of the Horse.

#### **4. Written submission by the PR**

- 4.1 On 4 November 2014 and 26 January 2015, the PR provided his explanations for the positive finding. The PR argued that he did not bear any Fault or Negligence for the positive finding. At the same time however the PR accepted that Hydroxyethylpromazine sulfoxide – a metabolite of Acepromazine – had been detected in the Horse's sample, and that this constituted a prima facie violation of Article 2.1 of the ECM Rules. The full details of the PR's submission will be addressed in the Final Tribunal Decision.

#### **5. The further proceedings**

- 5.1 On 26 March 2015, the FEI requested the Tribunal to rule on the automatic disqualification of the PR and the French Eventing team from the Event, including the consequent forfeiture of all medals, points and prize money, in accordance with Articles 9, 10.1.1 and 11.1.1 of the ECM Rules and in advance of a Final Tribunal Decision on the merits ("the FEI Request"). In support of its request the FEI argued that in light of the fact that the PR had accepted that Hydroxyethylpromazine sulfoxide had been identified in the Sample, and that this constituted a prima facie violation of Article 2.1 of the ECM Rules, the Tribunal would inevitably have to disqualify the PR and the French Eventing team, regardless of whether or not the Tribunal accepted the PR's claim of No Fault and No Negligence for the positive finding. That furthermore, a ruling on the automatic disqualification from the Event in advance of a Final Tribunal Decision on the merits was in the interest of the sport insofar as the results of the PR had enabled the French Eventing team to qualify for the 2016 Olympic Games. That however any disqualification of the PR would also lead to the disqualification of the French Eventing team and that such disqualification would lead to a different team being qualified for the 2016 Olympic Games. That it was therefore in the interest of not only the French Evening team, but also other potentially qualified teams, to obtain clarity on the question of Olympic qualification as soon as possible.
- 5.2 On 27 March 2015, the Tribunal granted the PR and the French Eventing team the possibility to comment on the FEI Request.
- 5.3 On 1 April 2015, the FRA-NF explained that it had no comment to the FEI Request, and agreed that a ruling on the automatic disqualification as requested by the FEI was in the best interest of all Parties involved.
- 5.4 Until the date of this decision, the PR has not provided any comments to the FEI Request.

## **6. Jurisdiction**

- 6.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, GRs and ECM Rules.

## **7. The Person Responsible**

- 7.1 The PR is the Person Responsible for the Horse, in accordance with Article 118.3 of the GRs, as he had competed with the Horse at the Event.

## **8. The Decision**

- 8.1 The Tribunal is satisfied that the laboratory reports relating to the A-Sample and the B-Sample reflect that the analytical tests were performed in an acceptable manner and that the findings of LCH are accurate. The Tribunal is satisfied that the test results evidence the presence of Hydroxyethylpromazine sulfoxide in the urine sample taken from the Horse at the Event. The PR did not contest the accuracy of the test results or the positive findings. Hydroxyethylpromazine sulfoxide is a metabolite of Acepromazine - a Controlled Medication Substance under the FEI Equine Prohibited Substances List - and the presence of Hydroxyethylpromazine sulfoxide in a Horse's body during an Event without a valid Veterinary Form is prohibited under Article 2.1 of the ECM Rules.
- 8.2 The FEI has thus established an Adverse Analytical Finding, and has thereby sufficiently proven the objective elements of an offence in accordance with Article 3 of the ECM Rules. As follows from the above, the PR has accepted the positive finding both in the A- as well as in the B-Sample, and is furthermore accepting having committed a violation under Article 2.1 of the ECM Rules.
- 8.3 Once an ECM Rule violation during or in connection with the FEI World Equestrian Games has been established, as set forth in Articles 9, 10.1.1 and 11.1.1 of the ECM Rules, this leads to the automatic disqualification of all of the Person Responsible's results obtained in that Event, with any and all Horses with which the Person Responsible competed, with all resulting consequences, including forfeiture of any related medals, points and prizes. Further where a member of a team is found to have committed a violation of the ECM Rules during the FEI World Equestrian Games, the entire team will be disqualified.
- 8.4 For the reasons set forth above, the FEI Tribunal is disqualifying the PR's results obtained in the Event with any and all Horses with which he competed, as well as the entire French Eventing team, and all medals, points and prize money won must be forfeited, in accordance with Articles 9, 10.1.1 and 11.1.1 of the ECM Rules.

- 8.5 A fully reasoned Final Decision, including a finding on sanctions and costs, shall be issued at the end of the proceedings, pursuant to Article 19.45 of the Internal Regulations of the FEI Tribunal.
- 8.6 This Decision can be appealed before the Court of Arbitration for Sport ("CAS") within 30 days of the present notification.

**FOR THE PANEL**

A handwritten signature in black ink, appearing to read 'Henrik Arle', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

---

**THE CHAIR, Mr. Henrik Arle**