



DECISION of the JUDICIAL COMMITTEE of the FEI

dated 27 November 2006

Positive Medication Case No.: 2005/42

Horse: POPEYE

FEI Passport No: ITA06436

Person Responsible: Mr Norman Dello Joio, USA

Event: CSI2* Saugerties, NY (USA) 3-7.08.2005

Prohibited Substances: Reserpine

1. COMPOSITION OF PANEL

Prof. Dr Jens Adolphsen
Mr Philip O'Connor
Mr Leonidas C. Georgopoulos

2. SUMMARY OF THE FACTS

2.1 Memorandum of case: by Legal Department.

2.2 Summary information provided by Person Responsible (PR): The Judicial Committee took into consideration all documents presented in the case file, as also made available directly to the PR and through his National Federation.

2.3 Oral hearing: Held in Lausanne (SUI) on 13 November 2006.

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

3.1 Articles of the Statutes/General Regulations/Veterinary Regulations which are applicable or have been infringed:

Statutes 21st edition, effective 21 April 2004, ("**Statutes**"), Arts. 001.6, 057 and 058.

General Regulations ("**GR**"), 21st edition, effective 1 January 2005, Arts. 142, 146.2 and 174.

Veterinary Regulations ("**VR**"), 9th edition, effective 1st January 2002, Art. 1013 and Annex IV.

FEI Code of Conduct for the Welfare of the Horse, 2004.

3.2 Person Responsible: Mr Norman Dello Joio

3.3 Justification for sanction:

GR Art. 146.2: "Any horse found to have a Prohibited Substance in any of its tissues, body fluids or excreta at an event [...] is automatically disqualified, together with the competitor [...], from all competitions at that event, [...] unless the Judicial Committee decides based on the evidence to terminate the proceedings of the case."

4. DECISION

4.1 Consideration of the evidence:

- a. Popeye participated in the CSI2* in Saugerties (USA), from the 3rd to the 7th of August 2005 (the "Event"). Popeye was ridden by Mr Norman Dello Joio who is the Person Responsible in accordance with GR Article 142 (the "PR").
- b. Popeye was selected for sampling on 7 August 2005. Analysis of the urine sample no. E64762 taken from Popeye performed by an approved reference laboratory of the FEI, the Equine Drug Testing and Research Laboratory, Ithaca, NY, USA ("EDTRL"), revealed the presence of reserpine. The PR waived his right to a confirmatory analysis on 12 October 2005.
- c. Reserpine, a tranquilizing and antihypertensive drug with a cumulative and long-lasting effect acting *inter alia* on the nervous system, is graded "1" by the Medication Sub-Committee of the FEI ("MSC") as evidenced by the MSC Report dated 12 September 2005.
- d. The Judicial Committee is satisfied that the laboratory reports reflect that the tests were accurately performed in an acceptable method and that the findings of EDTRL are accurate. The Judicial Committee is satisfied that the test results show the presence of the prohibited substance, reserpine. The PR did not contest the accuracy of the testing methods or the test results and positive findings. The FEI has thus sufficiently proven the objective elements of a doping offence.
- e. The establishment of the objective elements of a doping offence creates the presumption of guilt of the PR. The finding on analysis of a prohibited substance is presumed to be a deliberate attempt of the PR to affect the performance of the horse. The PR has the opportunity to seek to rebut this presumption.
- f. In his written explanations submitted through counsel, and in his oral testimony given at the hearing, the PR states that no prohibited substance was voluntarily administered to the

horse. The PR explained that he was given what purported to be vitamin supplements from a close friend, who is also a competitor. These tablets, which were non-proprietary and unlabelled, were administered to Popeye at the Event in light of the heat. He stated that he asked his treating veterinarian to have the supplements examined to determine if they contained any prohibited substances. A supporting letter from the veterinarian dated 10 October 2005 states that the result of this form of analysis was that the product did not contain any performance-enhancing medication.

- g. After receiving notification of the positive result from the FEI, the PR had the "vitamins" tested again by another laboratory, which confirmed the presence of reserpine (Report dated 12 October 2005 to Dr. Geoffrey Vernon).
- h. The file contains numerous character references from reputable equestrian personalities as to the PR's' reputation for integrity.
- i. Under the applicable FEI rules, the PR is responsible for all matters related to his or her mount, including ensuring that the horse is free of any prohibited substances in competition.
- j. While the file indicates that the PR took certain precautions in apparently seeking to determine whether prohibited substances were present in the tablets administered to Popeye, and he has therefore rebutted the presumption of intent to influence performance, the positive result clearly indicates that these measures were insufficient and that the highly experienced PR was therefore negligent.
- k. The Judicial Committee wishes to emphasize that PRs who administer unlabelled substances to their mounts do so at their peril.

4.2 Disqualification

As a result of the foregoing, the Judicial Committee has decided to disqualify the horse Popeye and the PR from the Event and all prize money won at the Event must be forfeited.

4.3 Sanctions

As a consequence of the foregoing, the Judicial Committee decides as follows:

- 1) GR Art. 174.6.2.2 GR offers a suspension period of the PR from 1 to 3 months. Considering that the substance was graded "1" by the MSC of the FEI, the Judicial Committee is of the opinion that a suspension of 2 months is appropriate and proportional.
- 2) The suspension is to commence immediately and without further notice at the expiration of the period in which an appeal may be filed

(30 days from the date of notification of the written decision) or earlier if the appeal is waived in writing by or on behalf of the PR.

- 3) The PR is fined CHF 1'000.-
- 4) The PR shall contribute CHF 1000.- 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

6. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:

Date : 27. 11. 06

Signature: 