



DECISION of the FEI TRIBUNAL

dated 23 June 2016

Positive Controlled Medication Case No.: 2015/CM03

Horse: NEXT IN LINE AT GRANGEWAY **FEI Passport No:** 104FI04/QAT

Person Responsible/NF/ID: Abdulla Thaous S J AL Naimi/10093144/QAT

Support Personnel/NF/ID: Mohammed Misfer M D Al Hababi/QAT/10113220

Event: CEIYJ1* 90 – Doha, Mesaieed (QAT)/2015_CI_12503_E_YJ_01_01

Date: 11 April 2015

Controlled Medication Substances: Dexamethasone

I. COMPOSITION OF PANEL

Mr. Erik Elstad, one member panel

II. SUMMARY OF THE FACTS

- 1. Memorandum of case:** By Legal Department.
- 2. Case File:** 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 and to the Owner.
- 3. Oral hearing:** none

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

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

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

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2015, Arts. 118, 143.1, 161, 168 and 169 ("GRs").

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

FEI Equine Anti-Doping and Controlled Medication Regulations ("EADCMRs"), 2nd edition, effective 1 January 2015.

FEI Equine Controlled Medication Rules ("ECM Rules"), 2nd edition, effective 1 January 2015.

Veterinary Regulations ("VRs"), 13th edition, effective 1 January 2015, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

2. Person Responsible: Mr. Abdulla Thaous S J AL Naimi

3. Support Personnel (Owner): Mr. Mohammed Misfer M D Al Hababi

4. 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 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 a Rule violation under Article 2.1."

ECM Rules Art. 2.2.1: "It is each Person Responsible's duty, along with members of their Support Personnel, to ensure that no Controlled Medication Substance enters into the Horse's body and that no Controlled Medication Method is Used during an Event without a valid Veterinary Form. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the part of the Person Responsible, and/or member of his Support Personnel (where applicable), be demonstrated in order to establish a Rule violation for Use of a Controlled Medication Substance or a Controlled Medication Method. However, in accordance with the definition of Attempt, it is necessary to show intent in order to establish an ECM Rule violation for Attempted Use of a Controlled Medication Substance or a Controlled Medication Method."

Appendix 1 of the EADCMRs – Definition of Support Personnel: “Any coach, trainer, athlete, Horse owner, groom, steward, chef d’équipe, team staff, official, veterinarian, medical, or paramedical personnel assisting in any fashion a Person Responsible participating in or preparing for equine sports Competition. Veterinarians are included in the definition of Support Personnel with the understanding that they are professionals subject to professional standards and licences. An allegation that a veterinarian violated an EADCM Regulation will only be made where the factual circumstances surrounding the case indicate a likelihood that the veterinarian was involved in the violation.”

IV. DECISION

Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. Although the Tribunal has considered all the facts, allegations, legal arguments and evidence in the present proceedings, in its decision it only refers to the submissions and evidence it considers necessary to explain its reasoning.

1. Factual Background

- 1.1 NEXT IN LINE AT GRANGEWAY (the “**Horse**”) participated at the CEIYJ1* 90 in Doha, Mesaieed, Qatar, on 11 April 2015 (the “**Event**”), in the discipline of Endurance. The Horse was ridden by Mr. Abdulla Thaous S J Al Naimi, who is the Person Responsible in accordance with Article 118 of the GRs (the “**PR**”).
- 1.2 The Horse was selected for sampling during the Event.
- 1.3 Analysis of urine and blood sample no. 5539733 taken from the Horse at the Event was performed at the FEI approved laboratory, the Laboratoire des Courses Hippiques, in France (“**LCH**”). Analysis of the urine sample revealed the presence of Dexamethasone.
- 1.4 The Prohibited Substance detected is Dexamethasone. Dexamethasone is a corticosteroid with anti-inflammatory effect. The substance is classified as Controlled Medication Substance under the Equine Prohibited Substances List.
- 1.5 No request has been made to administer Dexamethasone to the Horse, and no Veterinary Form has been provided for the use of the substance on the Horse. Therefore, the positive finding for Dexamethasone in the Horse’s sample at the Event gives rise to a Controlled Medication Rule violation under the EADCMRs.

2. The Proceedings

The presence of the Prohibited Substances following the laboratory analysis, the possible Rule violation and the consequences implicated, were officially notified to the PR and the owner of the Horse, through the Qatar Equestrian Federation ("**QAT-NF**"), by the FEI Legal Department on 23 June 2015.

3. The B-Sample Analysis

- 3.1 Together with the Notification Letter of 23 June 2015, the PR and the owner of the Horse were also informed that they were 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 Neither the PR, nor the owner of the Horse, did request for the B-Sample to be analysed and accepted the results of the A-Sample analysis.

4. Written submissions by and on behalf of the PR

On 5 July 2015, the QAT-NF submitted answers to the FEI questionnaire by the PR and the owner and trainer of the Horse, Mr. Mohammed Misfer Al Hababi (the "**Owner**"). The individuals stated that the Owner had bought the Horse only in March 2015, and that since that point in time the Horse has had no specific veterinary treatment, nor have any prohibited substances been administered to the Horse. Further, that the Horse had been stabled in open public stables, and not given any specific food. That however in the morning of the Event, by mistake the Horse had been administered a cream containing Dexamethasone in order for it to relax since it has suffered from a little back pain. Finally, that they apologized for the mistake and that they promised to abide to FEI Rules in the future.

5. Further proceedings

- 5.1 On 6 July 2015, the FEI explained that the explanations provided by and on behalf of the PR were rather vague, and did not contain the necessary details. That in particular the PR has not provided any information on the product used, its ingredients, the dose used, the time and route of the alleged administration etc. The FEI therefore invited the PR to supplement his submission.
- 5.2 On 8 July 2015, the Owner provided two additional statements, one concerning the treatment of the Horse, and the other one regarding the ownership of the Horse. Regarding the treatment of the Horse he explained that they have been using two different types of creams in

order to relax the muscles of their horses. That one type - "Colvasone 0.2% w/v Solution for Injection" - was used (topical application) for horses not competing and that this product contained Dexamethasone (30 ml); and that the other type of cream free of Dexamethasone - "absorbine veterinary liniment gel" - was used to treat horses before and during competitions. That however by mistake the Horse had been administered the product containing Dexamethasone in the morning of the Event. Further, that they have used more than 25% of the cream bottle to treat the back pain of the Horse. Regarding the ownership of the Horse, the Owner explained that even though he had bought the Horse in March 2015, the procedure to register it under his name was still underway at this point in time. Together with the statements the Owner provided pictures of the two products; no product descriptions have however been provided.

6. Additional proceedings against the Owner

- 6.1 On 19 November 2015, the FEI Legal Department officially notified the Owner, as Support Personnel for the Horse, through the QAT-NF, of an alleged violation of Article 2.2 of the ECM Rules (Use or Attempted Use of a Controlled Medication Substance or Controlled Medication Method during an Event without a valid Veterinary Form) and the possible consequences.
- 6.2 In its Notification Letter, the FEI outlined that the fact that a horse for which the Owner was entered as trainer, QUALINE EL WIDDE, had tested positive for the same Controlled Medication Substance, Dexamethasone, in March 2015 (Case 2015/FT05 – QUALINE EL WIDDE) ("**the previous case**") had to be considered in deciding the appropriate sanctions. The horse QUALINE EL WIDDE had been ridden by the same rider, *i.e.*, the PR in the case at hand.
- 6.3 On 7 December 2015, the Owner explained that they were using the Dexamethasone cream by mistake on both the horse QUALINE EL WIDDE, *i.e.*, the horse in the previous case and the Horse in the case at hand. That the event of the previous case took place on 7 March 2015, and that he has been notified of the positive finding on 28 April 2015, *i.e.*, 8 weeks after the event. That the Event in the case at hand however took place three weeks before receiving the notification letter in the previous case. The Owner therefore stated that it had been impossible to know that the cream they had been using contained Dexamethasone. Together with his explanation, the Owner provided a copy of the Notification Letter of the previous case, dated 28 April 2015.

7. Written submission by the FEI

- 7.1 On 2 June 2016, the FEI provided its Answer to the explanations of the PR and the Owner.

7.2 With regards to the PR the FEI submitted in essence that:

- a) Article 3.1 of the ECM Rules made it the FEI's burden to establish all of the elements of the ECM Rule violation charged, to the comfortable satisfaction of the Tribunal. The elements of an Article 2.1 violation were straightforward. *"It is not necessary that intent, fault, negligence or knowing Use be demonstrated in order to establish an ECM Rule violation under Article 2.1"*. Instead it was a "strict liability" offence, established simply by proof that a Controlled Medication Substance was present in the Horse's Sample. The results of the analysis of the A- Sample taken from the Horse at the Event confirmed the presence of Dexamethasone, and constituted "sufficient proof" of the violation of Article 2.1 of the ECM Rules. The PR did not dispute the presence of Dexamethasone in the Horse's sample. Accordingly, the FEI has discharged its burden of establishing that the PR has violated Article 2.1 of the ECM Rules.
- b) Where a Controlled Medication Substance was found in a horse's sample, a clear and unequivocal presumption arose under the ECM Rules that it was administered to the horse deliberately, in an illicit attempt to enhance its performance. As a result of this presumption of fault, Article 10.2 of the ECM Rules provided that a Person Responsible with no previous doping offence who violated Article 2.1 of the ECM Rules was subject to a period of Ineligibility of six (6) months, unless he was able to rebut the presumption of fault. And that to do this the rules specified that he must establish to the satisfaction of the Tribunal (it being his burden of proof, on a balance of probability) (i) How the Prohibited Substance entered the Horse's system; and (ii) that he bears No Fault or Negligence for that occurrence; or (iii) that he bears No Significant Fault or Negligence for that occurrence. If the PR failed to discharge this burden, the presumption of intentional administration to enhance performance stood.
- c) The ECM Rules stipulate, and the jurisprudence of the Tribunal and CAS was very clear: it was a strict threshold requirement of any plea of No (or No Significant) Fault or Negligence that the PR proved how the substance entered into the Horse's system. In the FEI's opinion, the PR has given a plausible explanation of how the Controlled Medication Substance has entered into the Horse's system. The PR and the Owner explained that the competition was in the afternoon, and, in the morning, they used by mistake a cream on the Horse that contained Dexamethasone to relax the Horse as it had a little back pain.

7.3 With regards to the Owner the FEI submitted in essence that:

- a) As owner of the Horse, the Owner qualified as member of the Support Personnel in accordance with the definition outlined in the EADCMRs.
- b) The statements by the Owner, supplemented by the statements of the

PR regarding the application of the cream containing Dexamethasone to the Horse, only a few hours prior to the competition, was sufficient evidence of a violation by the Owner of Article 2.2 of the ECM Rules. That the second sentence of Article 2.2.1 of the ECM Rules clearly stipulated that it is not necessary that intent, fault, negligence or knowing Use on the part of the member of the Support Personnel be demonstrated in order to establish an ECM Rule violation for Use of a Controlled Medication Substance. Accordingly, the FEI submitted that it has discharged the burden of establishing that the Owner has violated Article 2.2 of the ECM Rules.

- c) According to Article 10.2 of the ECM Rules, the sanction imposed for a violation of Article 2.2 of the ECM Rules shall be a period of Ineligibility of six (6) months, unless the conditions for eliminating, reducing, or increasing the sanction provided in Article 10.4 or 10.5 of the ECM Rules are met.

7.4 Regarding Fault/Negligence of the PR and Owner the FEI submitted that:

- a) The FEI proposed to deal collectively with the Fault and Negligence of the PR and the Owner, as the statements – including numerous references to “we” - of the PR and the Owner indicated that the administration of the cream containing the Prohibited Substance was something that had been done collectively by both of them.
- b) Following from Article 2.1.1 of the ECM Rules the PR had a personal duty to ensure that no Controlled Medication Substance was present in the Horse’s body. Similarly, the Owner, as an additional Person Responsible, had to also ensure that no Controlled Medication Substance entered the Horse’s body. That however both the PR and the Owner had clearly failed to comply with their respective duties to ensure that no Controlled Medication Substance was present in the Horse’s body during the competition.
- c) The FEI had serious doubts as to whether the application of the cream containing Dexamethasone to the Horse in the morning of the Competition was a mistake, as alleged by the PR and the Owner. The fact that two different horses ridden by the PR and owned/trained by the Owner have tested positive for the same Prohibited Substance on two separate events made their defence that the product was mistakenly applied somewhat implausible and indicated a high degree of Fault or Negligence on the part of both the PR and the Owner. That, even if the Tribunal accepted that the cream containing Dexamethasone was mistakenly applied, the PR did not provide any explanations with regard to the steps taken to avoid such a mistake occurring. To apply a cream to a horse competing in an FEI Competition without carrying out any inquiry to see if such cream contained a Prohibited Substance was indicative of a high degree of Negligence. Furthermore, to do so when aware of the fact that a similar cream, apparently routinely used by the PR and the Owner, contains a Prohibited Substance, *i.e.*, Dexamethasone, demonstrated that the level of Fault of both was high and inexcusable.

- d) The lack of notification of the first violation was irrelevant to the PR and Owner's degree of Fault or Negligence in the case at hand, and had in no way to be considered as a mitigating factor. The FEI rejected the Owner's submission that it had been "impossible" for either the PR or the Owner to know that the cream contained Prohibited Substances. That from the explanations provided they had been aware that a product containing Dexamethasone was not permitted for use in horses competing.
- e) That when reading the Owner's statement "*We use more than 25% of the cream bottle to treat the horse back pain*", in conjunction with the PR's statement that they had applied the cream "*to relax the horse that had a little back pain*", it was clear that the Owner and PR were aware of the pain properties of the cream. That if the Owner and the PR treated the Horse with the cream on the morning of the competition in question to relieve the pain of the Horse, such actions indicated a very high level of Fault as it was contrary to horse welfare principles to compete in a 90 km endurance competition on a horse that was suffering from such a level of back pain that the administration of such a cream was deemed necessary by the PR and Owner. Such action also indicated a clear intent to enhance the performance of the Horse through the administration of a Prohibited Substance.
- f) The FEI submitted that the level of both the PR's and Owner's fault was high and they have been negligent with regards to their responsibilities under the EADCMRs, which has resulted in the rule violations. Both have clearly failed in their duty of utmost caution to ensure that the Horse has not ingested any Prohibited Substance. On that basis there was no possibility of reduction of the otherwise applicable sanction under Articles 10.4 or 10.5 of the ECM Rules.

7.5 In addition, the FEI submitted that:

- a) Pursuant to Article 9 of the ECM Rules, the results of the PR and Horse combination obtained in the Competition shall be disqualified with all resulting Consequences, including forfeiture of any related medals, points and prizes.
- b) As fairness did not dictate that no fine be levied in the case at hand, the FEI duly requested that a fine be imposed on the PR and the Owner, and that the PR and the Owner were ordered to pay the legal costs that the FEI has incurred in pursuing this matter.

8. Rebuttal submission by the PR

On 6 June 2016, the PR further submitted that he was not related to those doping cases, including the case at hand. That he had no relation with the horses, including the Horse, prior to competing with them. As it was the case with all horses, the Horse had been trained for him by the trainer. He competed in FEI competitions for many years, and that so far

none of those horses had tested positive. Finally, that since he had nothing to do with the mistake, *i.e.*, applying the wrong cream to the Horse, he should not be sanctioned.

9. Rebuttal submission by the Owner

- 9.1 On 6 June 2016, the Owner further submitted that it had been the groom who had mistakenly applied the cream containing the Dexamethasone to the Horse. The Owner confirmed that the PR had not been related to the Horse, or the mistake, *i.e.*, the application of the cream containing Dexamethasone to the Horse. Further, that the Horse had been prepared for the PR prior to the Competition.
- 9.2 The Owner further argued that there had been no intention to enhance the Horse's performance, as he had prepared the Horse, and the horse QUALINE EL WIDDE, to compete at a high level, and since he had known that they would be tested when finishing on the podium, which he had expected. He further argued that, as owner and trainer of horses, his horses had been tested many times; all with negative results prior to the case at hand and the previous case.
- 9.3 Further that the legal qualifications in the case at hand, had to be like the one in the case of QUALINE EL WIDDE (Case 2015/FT), *i.e.*, treated under the administrative procedure, as he had only received the Notification letter of the first case, after the Horse had been tested in the case at hand. Finally, that he knew of two consecutive cases for the same horse, owner and trainer, and they had not been sanctioned in the same way as that the FEI was charging him. That, he had already been deprived of the prizes and awards in the two cases, *i.e.*, the case at hand and the previous case, and that the case at hand was highly damaging to him as owner and trainer, and to the PR as rider.

10. Jurisdiction

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

11. The Person Responsible

The PR is the Person Responsible for the Horse, in accordance with Article 118.3 of the GRs, as he was the rider of the Horse at the Event.

12. The member of the Support Personnel

The Owner, as owner of the Horse, qualifies as a member of the Support Personnel for the Horse, in accordance with the EADCMRs (Annex 1 – DEFINITIONS "Support Personnel").

13. The Decision

- 13.1 As stated in Article 2.1.2 of the ECM Rules, sufficient proof of an ECM Rule violation is established by the presence of a Controlled Medication Substance in the Horse's A-Sample where the PR waives analysis of the B-Sample and the B-Sample is not analysed. The Tribunal is satisfied that the laboratory reports relating to the A-Sample reflect that the analytical tests were performed in an acceptable manner and that the findings of the LCH are accurate. The Tribunal is satisfied that the test results evidence the presence of Dexamethasone 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. Dexamethasone is classified as Controlled Medication Substances under the Equine Prohibited Substances List. The presence of Dexamethasone during an Event without a valid Veterinary Form is prohibited under Article 2.1 of the ECM Rules.
- 13.2 With regards to the PR, the FEI has therefore established an Adverse Analytical Finding, and has sufficiently proven the objective elements of an offence in accordance with Articles 2.1 of the ECM Rules.
- 13.3 Regarding the member of the Support Personnel, the Tribunal holds that the FEI has discharged its burden of establishing that the Owner has violated Article 2.2 of the ECM Rules. The Tribunal finds that the statements by the Owner, supplemented by the statements of the PR, with regards to the application of the product containing Dexamethasone to the Horse, on the morning of the Competition, establish sufficient proof for a violation of Article 2.2 of the ECM Rules by the Owner. In this respect, the Tribunal takes note of the Owner's contradictory statements as to who had actually applied the product/cream to the Horse. In his last statement the Owner stated that it had been the groom who had applied the cream to the Horse, whereas the Owner previously – and prior to him being charged for an alleged rule violation - stated "we", which to the Tribunal clearly indicates that he had been involved in the application of the cream containing Dexamethasone to the Horse on the morning of the Competition. In the opinion of the Tribunal, the latter explanation of the Owner has to therefore be discounted. As a result the FEI has discharged its burden of establishing that the Owner has violated Article 2.2 of the ECM Rules, *i.e.*, the Use or Attempted Use of a Controlled Medication Substance or Controlled Medication Method during an Event without a valid Veterinary Form.
- 13.4 In cases brought under Article 2.1 of the ECM Rules, or under Article 2.2 of the ECM Rules for Use of a Controlled Medication Substance, a strict liability principle applies as described in Articles 2.1.1 and 2.2.1 of the ECM Rules. Once an ECM Rule violation has been established by the FEI, the PR and the member of Support Personnel have the burden of proving that they bear "No Fault or Negligence" for the rule violation as set forth in Article 10.4 of the ECM Rules, or "No Significant Fault or Negligence," as set forth in Article 10.5 of the ECM Rules.

- 13.5 However, in order to benefit from any elimination or reduction of the applicable sanction under Article 10.4 or 10.5 of the ECM Rules, the PR must first establish how the Controlled Medication Substance entered the Horse's system. This element is a prerequisite to the application of Article 10.4 or 10.5 of the ECM Rules.
- 13.6 To start with the Tribunal takes note of the PR's and Owner's explanations on how the Dexamethasone had entered the Horse's system, namely by topical application of around 25% of the cream bottle "Colvasone 0.2% w/v Solution for Injection" containing Dexamethasone (30 ml) on the Horse in the morning of the Competition to ease a little back pain of the Horse. The Tribunal takes further note that the FEI is satisfied that the PR has established how the Dexamethasone entered the Horse's system. The Tribunal therefore finds that the PR has established - on a balance of probability, as required under Article 3.1 of the ECM Rules - how the Prohibited Substance had entered the Horse's system.
- 13.7 In a second step the Tribunal needs to examine the question of "No Fault or Negligence" or "No Significant Fault or Negligence" for the rule violation. To start with the Tribunal finds that is not convinced that the product containing Dexamethasone has been applied to the Horse by mistake, as alleged by the Owner. From the explanations submitted it is not clear to the Tribunal how the Owner and his staff could have mistaken the two products in the first place. The pictures provided by the Owner in this respect illustrate two bottles looking totally different in colour and shape; even more so, if the two products have been routinely used - which seems to have been the case according to the statements by the Owner. The fact that another horse of the Owner also tested positive for the same substance, Dexamethasone, around the same time, which had - according to the statements of the owner - also been applied the same cream, also confirms the routine use of the product containing Dexamethasone. Furthermore, due to the changing and conflicting statements of the Owner in the case at hand, it is not clear to the Tribunal whether the PR had actually administered or witnessed the administration of the product, and whether the PR was aware of such administration and the Horse's back pain at the time of the Event. For the reasons outlined below, the Tribunal however finds that it does not matter whether the product had been applied by mistake or not, or whether the PR had been aware or not of the administration and the Horse's back pain, as neither the PR nor the Owner can discharge their burden that they bore No (Significant) Fault or Negligence for the rule violation, even when considering that the administration of the product containing Dexamethasone had occurred by mistake, and when considering that the PR had not been aware of the administration and the Horse's condition.
- 13.8 In accordance with Article 2.1.1 of the ECM Rules, the Tribunal considers that it is the PR'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. The Tribunal finds that the PR has acted at fault, or at least highly negligent in case he was not aware of the

administration of the product containing a Prohibited Substance, in performing his duties as competitor for several reasons. To start with, the Tribunal takes note that the PR did not provide any explanations with regard to the steps taken to avoid that no Controlled Medication Substance entered the Horse's body. In line with its previous decisions, the Tribunal holds that the PR cannot be discharged of this duty – his personal duty as a rider – even when not having been in charge of preparing the Horse, and even when not having had any connection to the Horse prior to the Event. It is the PR's duty as a competitor to make inquiries whether the Horse was free of Prohibited Substances, and put measures in place to assure that he is informed of all medications administered to the Horse. This seems to however not have been the case in the case at hand.

- 13.9 Furthermore, the Tribunal holds that – in line with its previous decisions - Persons Responsible are responsible for their Support Personnel and the medical treatment given by them to their horses. In the case at hand the Tribunal finds that – under the ECM Rules - the PR has to assume responsibility for the actions taken by the Owner and his staff.
- 13.10 Accordingly, the Tribunal finds that the PR has acted at fault/highly negligent in performing his duties as competitor. The Tribunal therefore comes to the conclusion that no reduction or elimination of the otherwise applicable period of Ineligibility is warranted.
- 13.11 With regards to the Owner, the Tribunal holds that he was at fault in performing his duties as owner, and thus a member of Support Personnel, for several reasons.
- 13.12 In accordance with Article 2.2.1 of the ECM Rules, the Tribunal considers that – next to the PR - it is also the Owner's personal duty – as a member of Support Personnel - to ensure that no Controlled Medication Substance is present in the Horse's body during an Event without a valid Veterinary Form. To start with, the Tribunal takes note that the Owner did not provide any explanations with regard to the steps taken to avoid that no Controlled Medication Substance entered the Horse's body. To the contrary, the Owner simply stated that they had applied two types of creams, one containing Dexamethasone destined for non-competition horses, and the second one free of Dexamethasone destined for competition horses, such as the Horse. In line with its previous decisions, the Tribunal finds that owners of horses must have procedures in place to make sure that the duty of care is fulfilled, such as written recordings of treatment provided have to be maintained, medicines containing Prohibited Substances stored separately, and support personnel has to be made aware of the possibility of positive cases due to medication. No such procedures seem to have been in place in the case at hand. Otherwise the Owner and his staff would have known that they had applied a product containing Dexamethasone to the Horse; even more so if the product was applied to horses on a regular basis, as it was the case in the case at hand. The Owner's claim in this respect that he could not have known that

the product contained Dexamethasone, as he had only been notified of the previous case after the Event, is therefore not relevant for the findings in the case at hand.

- 13.13 Finally, the Tribunal finds that the level of fault of the Owner has been considerable, since he has not only allowed a horse to compete with a Prohibited Substance in its system, but has also potentially risked the Horse's health and welfare, when allowing it to ride in a 90-km-ride despite the Horse suffering from a back pain and requiring treatment.
- 13.14 Accordingly, the Tribunal finds that the Owner has acted at fault in performing his duties as owner of the Horse. The Tribunal therefore comes to the conclusion that no reduction or elimination of the otherwise applicable period of Ineligibility is warranted.

14. Disqualification

For the reasons set forth above, the Tribunal disqualifies the Horse and the PR combination from the Competition and all medals, points and prize money won must be forfeited, in accordance with Article 9 of the ECM Rules.

15. Sanctions

- 15.1 In accordance with Article 10.2 of the ECM Rules, the period of Ineligibility for a violation of Article 2.1 and for a violation of Article 2.2 of the ECM Rules shall be six (6) months.
- 15.2 The FEI Tribunal imposes the following sanctions on the PR and on the Owner in accordance with Article 169 of the GRs and Article 10 of the ECM Rules:
- 1) The **PR** shall be suspended for a period of **six (6) months** to be effective immediately and without further notice from the date of the notification. Therefore, the PR shall be ineligible through **22 December 2016**.
 - 2) The **Owner** shall be suspended for a period of **six (6) months** to be effective immediately and without further notice from the date of the notification. Therefore, the Owner shall be ineligible **through 22 December 2016**.
 - 3) The **PR** is fined **one thousand Swiss Francs (CHF 1'000,-)**.
 - 4) The **Owner** is fined **two thousand Swiss Francs (CHF 2'000,-)**.
 - 5) The **PR** shall contribute **five hundred Swiss Francs (CHF 500,-)** towards the costs of the judicial procedure.
 - 6) The **Owner** shall contribute **two thousand Swiss Francs (CHF**

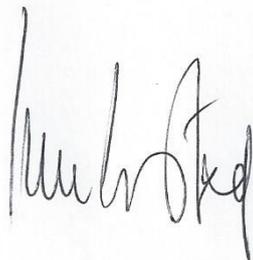
2'000,-) towards the costs of the judicial procedure.

- 15.3 No Person Responsible or member of the Support Personnel who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity that is authorised or organised by the FEI or any National Federation or be present at an Event (other than as a spectator) that is authorized or organized by the FEI or any National Federation, or participate in any capacity in Competitions authorized or organized by any international or national-level Event organisation (Article 10.11.1 of the ECM Rules). Under Article 10.11.2 of the ECM Rules, specific consequences are foreseen for a violation of the period of Ineligibility.
- 15.4 According to Article 168 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.
- 15.5 In accordance with Article 12 of the ECM Rules the Parties may appeal against this decision by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.

V. DECISION TO BE FORWARDED TO:

- a. The persons sanctioned: Yes**
- b. The President of the NF of the persons sanctioned: Yes**
- c. The President of the Organising Committee of the Event through his NF: Yes**
- d. Any other: No**

FOR THE PANEL

A handwritten signature in black ink, appearing to read 'Erik Elstad', is written over a light blue rectangular background.

One member panel, Mr. Erik Elstad