

**IN THE EQUESTION AUSTRALIAN DISCIPLINARY TRIBUNAL
(the “Tribunal”)**

IN THE MATTER OF:

EQUESTRIAN AUSTRALIA LIMITED (EA)

and

FRANCESCA CHRISTIE

Regarding

SLM MIND GAMES (the “Horse”)

TRIBUNAL MEMBERS:

Mary Jane Crabtree

Susan Herbert

William Alstergren (Chairman)

Date of Decision: 2 June 2009

Decision:

1. That Francesca Christie and SLM Mind Games be disqualified from the EFA Victorian RT Edgar Show Horse State Titles (the “**Victorian Event**”) held 5 October 2008.
2. That Francesca Christie and SLM Mind Games be disqualified from the EFA Australian Show Horse and Rider combinations (“**Australian Championships**”) held on 5 and 6 December 2008.
3. That as a result of the disqualifications as referred to in paragraphs 1 and 2 above, Francesca Christie and SLM Mind Games return to the organising bodies all prize money, medals and other prizes received as a result of participation in the Victorian Event and the Australian Championships.
4. The Tribunal invites the parties to make submissions in relation to penalty. The Tribunal has received voluminous submissions from both parties which includes submissions as to penalty. However, the Tribunal is content to receive any further

submissions, desired from the parties in relation to penalty. The Tribunal notes that the most recent submissions in relation to the penalty are to be found in paragraph 10 of EA's submission dated 1 May 2009 requesting that the appropriate penalty is a fine of \$15,000.00, and a submission by the lawyers for Francesca Christie dated 4 May 2009 indicating that a fine of \$10,000.00 was totally out of proportion with the agreed facts in the matter. Both parties agree that a period of ineligibility is not required or in this case appropriate.

Reasons for decision

5. The parties have provided to the Tribunal very useful and substantial submissions.
6. The Tribunal has considered those submissions and at a directions hearing determined that it would be of assistance to receive supplementary submissions together with a statement of agreed facts. The Tribunal received, on 4 May 2009 supplementary submissions together with a signed statement of agreed facts.
7. The statement of agreed facts is particularly useful as it defines the questions to be determined by the Tribunal and the agreed facts between the parties. Accordingly, there was no dispute between the parties as to the facts involved with the participation of Francesca Christie and SLM Mind Games in either one of the Victorian Event or the Australian Championship or the collection and result of samples and the applicable rules.
8. However, for the sake of completeness we set out the background facts.
9. On 5 October 2008 Francesca Christie and SLM Mind Games competed in the Victorian Event. The rules that were in place at the time were the Equine Anti-Doping and Medication Control Rules which took effect on 1 October 2006 (the "**EADMC Rule**").
10. The combination of Francesca Christie and SLM Mind Games won the Victorian event. The horse was then selected for medical control testing and there was no dispute between the parties as to the process engaged. On the form Francesca Christie signed she acknowledged that she was the person responsible for the horse.
11. The sample was taken for testing to the Australian Racing Forensic Laboratory which analysed the sample and identified the presence of a substance "cypheptadine" which is a prohibited substance under the current FEI Equine Prohibited List which is incorporated to the EADMC Rules by Article 4.
12. Following discussions with Francesca Christie and her representatives including a veterinarian, the EA, sensibly in our view, conceded that the substance should be classified as a Medication class A substance and the parties agreed to proceed with the matter on that basis.

13. On 5 and 6 December 2008 Francesca Christie and SLM Mind Games competed in the Australian championships. Their ability to enter was as a direct result of their previous success in winning the Victorian Event. It is not disputed between the parties that had they not won the Victorian Event or had they prior to competing in the Australian Championships been disqualified from the Victorian Event they would not be eligible to compete in the Australian Championships.

Questions the Tribunal has been asked to determine

14. Pursuant to the statement of agreed facts provided by the parties on 4 May 2009, the Tribunal has been asked to consider the following issues:

The operation and determination of Article 9 of the EA EADMC Rules, specifically whether the result of Francesca Christie and SLM Mind Games:

- (i) at the Victorian event; and/or
- (ii) at the Australian event

should be disqualified.

Critical to this evaluation will be the interpretation of the phrase “all resulting consequences” in Article 9 and also whether disqualification of the results applies to the person responsible and the horse combination or only the person responsible.

The appropriate penalty.

15. In order to answer these questions the Tribunal has considered the Article 9 of the Rules and the subsequent definitions. It is clear that the rules which apply are the EFA Events and Competition Equine Anti-doping and Medication Control Rules first edition effective 01 October 2006.

16. Pursuant to those rules Article 9 provides:

“A violation of these rules in connection with an In-Competition Test at a given Event automatically leads to Disqualification of all the results of the Person Responsible obtained in that Event with all the resulting consequences, including forfeiture of any medals, points and prizes.”

17. In answer to the first question of whether Francesca Christie and SLM Mind Games should be disqualified, the question to be answered is whether or not the disqualification of the Person Responsible results in the disqualification of the horse. Francesca Christie submits that the words "and the horse combination" added after the words "Person Responsible" in a later edition of the International Rules from which the EA EADMC Rules derive are necessary to make it clear that the Article 9 applies to a horse and rider combination. .”

18. The Tribunal has considered this point and is of the view that because neither horse nor rider can compete individually i.e. a horse cannot compete without a rider in the event and a rider can obviously not compete without a horse then, the application of Article 9 of the Rules results in the disqualification of both horse and rider. If this were not the case, then it would be possible for a horse's performance to be materially affected by the administration of a prohibited substance during a qualifying event, enabling it to compete successfully against "clean" combinations, and then be eligible to compete in a final event with a different rider. Accordingly, it would appear to the Tribunal that the proper interpretation of Article 9 is that the disqualification includes both Francesca Christie and SLM Mind Games.
19. Accordingly, the determination of the Tribunal is that both Francesca Christie and SLM Mind Games be disqualified from the Victorian Event And as a result Francesca Christie and SLM Mind Games were ineligible to compete in the Australian Championships and are therefore disqualified from the Australian Championships.
20. In determining the appropriate penalty, the Tribunal has considered the submissions made by both parties. Whilst there is material upon which the Tribunal may make such a determination as to penalty, the Tribunal is of the opinion that the parties should be afforded the opportunity of making further submissions if they deem appropriate.
21. In accordance with the Rules, there will be no order as to costs.

William Alstergren – Chairman

Maryjane Crabtree

Susan Herbert