



DECISION of the FEI TRIBUNAL

dated 13 February 2018

Positive Anti-Doping Case No.: 2017/BS19

Horse: BLAZE OF GLORY II

FEI Passport No: 103LD21

Person Responsible/NF/ID: Henry Turrell/GBR/10012428

Event/ID: CSI3* - Vilamoura (POR)/2017_CI_1225_S_S_01

Date: 6 – 12 March 2017

Prohibited Substance: Sparteine

I. COMPOSITION OF PANEL

Mr. Henrik Arle, chair

Mr. Cesar Torrente, member

Ms. Constance Popineau, member

II. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Articles of the Statutes/Regulations which are applicable:

Statutes 23rd edition, effective 29 April 2015 ("**Statutes**"), Arts. 1.4, 38 and 39.

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2017, 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 2016.

FEI Equine Anti-Doping Rules ("**EAD Rules**"), 2nd edition, effective 1 January 2016.



Veterinary Regulations (“**VRs**”), 13th edition 2015, effective 1 January 2017, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

2. Person Responsible: Mr. Henry Turrell

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).”

GRs Art. 118.3: “The Person Responsible shall be the Athlete who rides, vaults or drives the Horse during an Event, but the Owner and other Support Personnel including but not limited to grooms and veterinarians may be regarded as additional Persons Responsible if they are present at the Event or have made a relevant Decision about the Horse. In vaulting, the lunger shall be an additional Person Responsible.”

EAD Rules Art. 2.1.1: “It is each *Person Responsible's* personal duty to ensure that no *Banned Substance* is present in the *Horse's* body. *Persons Responsible* are responsible for any *Banned Substance* found to be present in their *Horse's Samples*, even though their *Support Personnel* will be considered additionally responsible under Articles 2.2 – 2.8 below where the circumstances so warrant. It is not necessary that intent, fault, negligence or knowing *Use* be demonstrated in order to establish an *EAD Rule* violation under Article 2.1.”

EAD Rules Art. 7.6.1: “At any time during the results management process the *Person Responsible* and/or member of the *Support Personnel* and/or *Owner* against whom an EAD Rule violation is asserted may admit that violation at any time, waive a hearing and may agree with the FEI on the Consequences that are mandated by these EAD Rules or (where some discretion as to Consequences exists under these EAD Rules) that have been offered by the FEI. The agreement shall be submitted to the FEI Tribunal for approval and, where approved by the *FEI Tribunal*, the final agreement shall state the full reasons for any period of *Ineligibility* agreed, including (if applicable), a justification for why the flexibility in *Sanction* was applied. Such agreement shall be considered as a decision for the case and will be reported to the parties with a right to appeal under Article 12.2.2 and published as provided in Article 13.3.”

III. DECISION

1. Parties

- 1.1 The Person Responsible ("PR"), Mr. Henry Turrell, is a show jumping rider for Great Britain.
- 1.2 The Fédération Equestre Internationale (the "FEI" and together with the PR, the "Parties"), is the sole IOC recognised international federation for equestrian sport. The FEI is the governing body of the FEI equestrian disciplines (Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, Reining, Para-Equestrian).

2. Preliminary Decision

- 2.1 On 27 April 2017, the FEI Tribunal Chair at the time – following a request for the lifting of the Provisional Suspension of the PR by the FEI – decided to lift the Provisional Suspension of the PR.
- 2.2 The FEI Tribunal Chair took note that the Prohibited Substance Sparteine was most likely reclassified from a Banned Substance on the 2017 Prohibited List to a Specified Substance in 2018. The FEI Tribunal Chair agreed with the FEI that in such case the *lex mitior* principle applied.
- 2.3 Furthermore, the FEI Tribunal Chair found that, given that the reclassification of Sparteine might potentially lead to no period of Ineligibility of the PR, depending on the PR's fault for the alleged rule violation, and in order to avoid that the Provisional Suspension might result in a period longer than the final (if any) period of Ineligibility, the Provisional Suspension of the PR had to be lifted at that point in time in the proceedings.

3. Further proceedings

On 6 February 2018, the FEI informed the Tribunal that the Parties had reached an agreement in the context of the case 2017/BS19 – BLAZE OF GLORY II and submitted the Agreement (together with the Case Summary and the Full Reasoning for the Agreement, as well as the Annexes outlined throughout this Decision) to the Tribunal for approval and incorporation into a Decision of the Tribunal in accordance with Article 7.6.1 of the EAD Rules.



I – Case Summary (as provided to the Tribunal by the Parties as part of the Agreement referred to Article 4 below)

- “3.1 The PR took part with his horse BLAZE OF GLORY II (the “Horse”) at the CSI3* in Vilamoura, Portugal, from 6-12 March 2017 (the “Event”). As a member of the British Equestrian Federation (the “GBR NF”), the latter being a member of the FEI, the PR was bound by the EAD Rules.
- 3.2 The Horse was selected for testing on 11 March 2017. The resulting samples were transported to the FEI approved LGC Newmarket Road Laboratory (“LGC”) in Cambridgeshire, UK for analysis.
- 3.3 By notification letter dated 18 April 2017 the FEI informed Mr. Henry Turrell, in his capacity as the Person Responsible, and the British NF of an alleged violation by Mr. Henry Turrell of Article 2.1 (The Presence of a Banned Substance or its Metabolites or Markers in a Horse’s Sample) of the EAD Rules and that, in accordance with Article 7.4.1 of the EAD Rules, a Provisional Suspension had been imposed on his following (i) the positive finding of the Banned Substance Sparteine in the A Sample of the Horse.
- 3.4 Sparteine is an anti-arrhythmic used to treat cardiac arrhythmias and to stimulate urine contractions and is classified as a Banned Substance under the FEI Equine Prohibited Substances List. A positive finding for Sparteine in a Horse’s Sample constitutes a prima facie Equine Anti-Doping Rule violation.
- 3.5 The PR was also informed that a Provisional Suspension of two (2) months, i.e. until 17 June 2017, had been imposed on the Horse.
- 3.6 In the Notification Letter of 18 April 2017, the PR was informed that he had the right to request that the Horse's B Sample be analysed. The PR did not request for the B Sample analysis. According to Art. 7.1.4 (c) of the EADCM Regulations the right to promptly request the B sample analysis has been given and by failing such request the B sample analysis is deemed waived.
- 3.7 On 26 April 2017, the FEI requested the lifting of the Provisional Suspension of the PR with immediate effect, due to the nature of Sparteine. “Sparteine is currently listed as a Banned Substance. It is found in *Cytisus scoparius*, the common broom or Scotch broom and the predominant alkaloid in *Lupinus mutabilis* – Lupin flower. Neither plant are a common contaminants in feed substances, but clearly could be a feed contaminant. Especially in certain countries, where the Lupin flower



grows. Both Horses¹ in the cases below competed at the same competition in Portugal. Lupin flower grows in many parts of Portugal and the seeds have a common use in Portugal as snack. The FEI therefore believes that there is a high likelihood of some kind of contamination during the competition". The FEI therefore believes that there is a high likelihood of some kind of contamination during the Event. The FEI was of the opinion that the reclassification of Sparteine may lead to proof of contamination and no fault of the PR in accordance with the Specified Substance rules and Article 7.4.4 (ii) of the Equine Anti-Doping and Controlled Medication Regulations (the "EADCMRs") should therefore be applied.

- 3.8 The Provisional Suspension of the Horse was not questioned.
- 3.9 The Panel agreed to such lifting in a Preliminary Decision of 27 April 2017 (Annex 1). The Preliminary Hearing Panel took note that the Prohibited Substance Sparteine would most likely be reclassified from a Banned Substance on the 2017 Prohibited List to a Specified Substance in 2018. The Preliminary Hearing Panel agreed with the FEI that in such case the "lex mitior" principle shall apply. Hence, the reclassification of Sparteine might lead to a shorter period of Ineligibility as predicted for a Banned Substance case and Article 7.4.4 (ii) of the EADCMRs could therefore be applied.
- 3.10 Further, after the National Federations' ("NF") procedure to comment on proposed changes of the FEI Equine Prohibited List (the "List"), the NFs accepted the suggested changes and the FEI Bureau confirmed the proposed change to the List regarding Sparteine on 5 September 2017. The new List has to be published at the latest three months before it enters into force, and was done so by the FEI on 27 September 2017 (Annex 2), and hence in force as of 1 January 2018.
- 3.11 The PR submitted several statements on 22 January 2018, which are summarised below:
- The PR confirms that he bought 8 bales of hay during the Event period, and further that he only bought hay from the organiser. (Annex 3)
 - Statement from the veterinarian Dr Waterhouse, confirms that Sussex Equine Hospital routinely provides veterinary care for Mr Turrel. During

¹ 2017/BS14 Horse/Passport: SIRENE DE LA MOTTE /103RA62/BEL Person Responsible/NF/ID: Marlon Modolo Zanotelli /10031717/BRA
2017/BS19 Horse/Passport: BLAZE OF GLORY II /103LD21/GBR Person Responsible/NF/ID: Henry Turrell/ 10012428/GBR



2016-2017 the Horse was routinely vaccinated and treated twice. No further medication was given by the veterinary practice and all medications given was in accordance with FEI rules. The Horse is normally considered healthy and does not command much veterinary intervention. (Annex 4)

- The PR further explains (Annex 5) his everyday life and his situation with his horses. He has been running his own small private breeding/producing yard for 20 years. This is his passion and hobby. All the horses are homebred and are treated as part of the family. Their welfare is the priority. The PR is the one solely to care for his horses on a day to day basis and he is therefore to ensure that all products used on my horses comply with FEI regulations. The only medication used if needed is always through the veterinarian. He has further only used the best quality hay and feeds which are purchased from reputable suppliers which has been used for a number of years, without any earlier problem. On a day to day basis, he solely look after the own horses. He insures that all feeds are kept in a secure designated area in air tight containers. All horses have their own feed buckets clearly marked with names which are washed out after each use. Any medications that he has been advised to give to the horses are kept in a secure cupboard in a locked tack room. Any medication used is also checked using the FEI app. At all events, feeds are kept in secure containers stored on the horse lorry which is locked at all times to avoid risk of interference. Again, the horses have their own clearly marked feed buckets which are washed after each use to avoid any cross contamination.

3.12 After further investigation and review of the data for the other samples taken from the same event venue in Portugal, the LGC Laboratory could confirmed that there were possible evidence of Sparteine in five other samples from the same Event, but that those samples were weak responses, hence the laboratory could not be able to confirm these findings as positives.

3.13 Based on the submissions made and the evidence from the laboratory, the most likely cause of the positive Sparteine finding was some sort of contamination of the hay sold by the organiser. However, limited information was available from the organiser in relation to where and when the organiser had purchased the hay, hence further investigation of the hay was therefore not possible. It was only confirmed that the hay came from several different providers but no hay samples or batch numbers were kept by the organiser.”



II – Full Reasoning for the Agreement (as provided to the Tribunal by the Parties as part of the Agreement referred to in Article 4 below)

- “4.1 According to Article 10.2 of the EAD Rules, the period of ineligibility imposed for the violation of Article 2.1 shall be, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6, two years. A fine of up to CHF15,000 shall also be imposed and appropriate legal costs.
- 4.2 Article 10.4 of the EAD Rules states *“If the Person Responsible and/or member of the Support Personnel (where applicable) establishes in an individual case that he/she bears No Fault or Negligence for the EAD Rule violation, the otherwise applicable period of Ineligibility and other Sanctions (apart from Article 9) shall be eliminated in regard to such Person. When a Banned Substance and/or its Metabolites or Markers is detected in a Horse’s Sample in violation of Article 2.1 (presence of a Banned Substance), the Person Responsible and/or member of the Support Personnel (where applicable) must also establish how the Banned Substance entered the Horse’s system in order to have the period of Ineligibility and other Sanctions eliminated. In the event this Article is applied and the period of Ineligibility otherwise applicable is eliminated, the EAD Rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 10.6 below.”* Article 10.4 of the EAD Rules also states that it *“only applies in exceptional circumstances”*.
- 4.3 Based on the evidence and documentation supplied by the PR (as described in Section 3 above), the FEI has evaluated whether or not Article 10.4 was applicable. The FEI has considered if the PR has established a plausible explanation of how the Banned Substance had entered the Horse’s system. In this regard, the FEI finds that there is a plausible explanation as to how the Banned Substance entered the Horse’s system based on the information that the Horse had been fed with hay from the organiser with a high likelihood of being contaminated feed. Firstly, since the presence of Sparteine may be contamination of Lupin flowers, which are commonly occurring in Portugal. Secondly, this is supported by the other confirmed positive Sparteine case 2017/BS14 from the very same Event, and also the other samples taken from the same Event venue in Portugal being reviewed by the LGC Laboratory, who could confirm that there were possible evidence of Sparteine in five other samples from the same Event, but that those samples were weak responses, and could not be confirmed as positives.
- 4.4 The FEI is therefore satisfied that contamination of Lupin flower in the



feed at the Event site is the most likely plausible explanation for how the Prohibited Substance Sparteine entered the Horse's system. The FEI is thus satisfied that the requirement of establishing how the Prohibited Substance entered the Horse's system has been fulfilled.

- 4.5 The FEI has proceeded to evaluate the level of Fault and Negligence of the PR. The FEI is satisfied that the PR had demonstrated that he bore no Fault or Negligence since he had procedures in place in order to prevent positive findings. The PR is the one solely to care for his horses on a day to day basis and he is therefore to ensure that all products used on my horses comply with FEI regulations. The only medication used if needed is always through the veterinarian. He has further only used the best quality hay and feeds which are purchased from reputable suppliers which has been used for a number of years, without any earlier problem. On a day to day basis, he solely look after the own horses. He insures that all feeds are kept in a secure designated area in air tight containers. All horses have their own feed buckets clearly marked with names which are washed out after each use. Any medications that he has been advised to give to the horses are kept in a secure cupboard in a locked tack room. Any medication used is also checked using the FEI app. At all events, feeds are kept in secure containers stored on the horse lorry which is locked at all times to avoid risk of interference. Again, the horses have their own clearly marked feed buckets which are washed after each use to avoid any cross contamination.
- 4.6 Additionally, the PR could reasonably not have been expected to take any further measures which would have prevented the Prohibited Substances entering the Horse's system. He could not have been expected to test the hay sold by the organiser and he could not have suspected that the feed given to his horses during the Event was contaminated with Lupin flowers. The FEI is of the opinion that the circumstances of the PR are unfortunate and could not have been foreseen by him as a Person Responsible. Thus in this case, the only plausible explanation for the presence of the Prohibited Substances is such contamination of the feed given to the Horse at the Event. Therefore the FEI is satisfied that the PR bears No Fault or Negligence for the anti-doping rule violation.
- 4.7 The FEI accepts that the circumstances of the case were exceptional on the basis that the presence of the Banned and Controlled Substances in the Horse's Sample and particularly the presence of Sparteine, are consistent with Lupin flower contamination. Further, there are one other case from 2017 from the very same Event, and also the possible evidence of Sparteine in five other samples from the same Event.



Additionally all of those PRs have purchased the hay from the organiser during the Event.

- 4.8 Research provided to the FEI has stated that some Lupins contain certain secondary compounds including isoflavones and toxic alkaloids, such as Lupinine and Sparteine. Further, Lupin flowers are moreover commonly occurring in Portugal, and their seeds are used as a snack, especially in Portugal. Additionally, according to the veterinarians there is no therapeutic use of Sparteine in a horse and its use would rather make the horse uncomfortable to ride.
- 4.8 Since the proceedings were opened against the PR, the FEI List Group has reclassified Sparteine as Specified Substance, with effect from 1 January 2018, and the FEI is satisfied that it would be appropriate to apply the principle of "Lex Mitior" in accordance with Article 16.1.2 of the EAD Rules, in relation to the applicable sanction for Specified Substances.
- 4.9 The FEI is satisfied that the criteria for the application of Article 10.4 of the EAD Rules had been met in that (i) the PR has established how the Banned Substances came to enter the Horse's system, (ii) the PR has demonstrated that he bore No Fault or Negligence and (iii) the circumstances of the case are exceptional and that, therefore, the otherwise applicable period of Ineligibility (i.e. two years) should be eliminated and that no other Sanctions (other than the Disqualification of the Horse's results at the Event in accordance with Article 9 and Article 10.1.4 and of the EAD Rules) should apply."

4. Agreement between Parties

On 6 February 2018, the Parties reached the following Agreement, based on the facts as detailed above:

*** Quote***

- 5.1 All capitalised terms used in this Agreement but not defined herein shall have the meaning ascribed to such term in the the FEI Equine Anti-Doping Rules ("EAD Rules")
- 5.2 In the matter of the Adverse Analytical Finding related to the samples, which were collected from "), Mr Henry Turrel's horse BLAZE OF GLORY II (the "Horse") at the CSI3* in Vilamoura, Portugal, from 6-12 March



2017 (the "Event"), Mr Henry Turrel (the "PR") and the Fédération Equestre Internationale (the "FEI" and together with the PR, the "Parties") agree, in accordance with Article 7.6.1 (*Agreement between Parties*) of the EAD Rules, on the following:

- 1) The **Presence of the Banned Substance(s) in the Horse's sample** constitutes a violation of Article 2.1 of the EAD Rules.
- 2) **Ineligibility Period:**
The Parties agree that the prerequisites for Article 10.4 of the EAD Rules (*Elimination of the Period of Ineligibility Where there is no Fault or Negligence*) are fulfilled in the case at hand and that the applicable period of Ineligibility shall be eliminated.
- 3) In accordance with Article 10.8.3 of the EAD Rules, this violation of the EAD Rules shall **not be considered a prior violation** for the purpose of Article 10.8 (*Multiple Violations*) of the EAD Rules.
- 4) **Provisional Suspension of the Horse:**
The PR has not contested the Provisional Suspension imposed on the Horse and therefore accepts that it remained in place until 17 June 2017.
- 5) **Disqualification of Results:**
In accordance with Articles 9 and 10.1.4 of the EAD Rules, all the results achieved by the PR with the Horse at the Event are disqualified, including forfeiture of medals, points and prizes.
- 6) **Full Settlement and Resolution:**
This agreement resolves and settles all outstanding matters between the FEI and the PR, Henry Turrel including the horse BLAZE OF GLORY II.
Accordingly, any and all other claims for relief that any party might otherwise have made against another in relation to the subject-matter of these proceedings are released and discharged unconditionally, and they may not be pursued in any form hereafter.
- 7) **No Other Sanctions:**
No fine shall be imposed on the PR. Each of the Parties shall bear their own legal costs.
- 8) **Right of Appeal:**
This Agreement will constitute the decision for this case. Consequently it will be communicated to the Parties with a right of appeal in



accordance with Article 12.2 of the EAD Rules.

End Quote

5. Jurisdiction

- 5.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, the GRs and the EAD Rules.
- 5.2 As a member of the British NF, the latter being a member of the FEI, the PR was bound by the EAD Rules.
- 5.3 Further, Article 7.6.1 of the EADCMRs allows for agreements between parties.
- 5.4 In addition, the Tribunal has taken note that since the proceedings were opened against the PR, Sparteine has been reclassified as Specified Substance, with effect from 1 January 2018. In this regard the Tribunal agrees with the FEI that the *lex mitior* principle, in accordance with Article 16.1.2 of the EAD Rules, concerning the applicable sanction for Specified Substances shall apply in the case at hand.
- 5.5 As a result, the Tribunal finds that it has jurisdiction to issue this Decision.

6. Approval of Agreement

- 6.1 Having reviewed the Case Summary, the Full Reasoning for the Agreement and terms of the Agreement, the Tribunal has – among others – taken note of the type of the Prohibited Substance Sparteine, *i.e.*, it being toxic for horses. Furthermore, the Tribunal has also taken into consideration that there is one other case from the very same Event, as well as the confirmation by the laboratory that there is possible evidence of Sparteine in five other samples from the same Event, and finally that all of those PRs have purchased the hay from the organiser during the Event.
- 6.2 In taking into account the specific circumstances of the case at hand, the Tribunal finds that exceptional circumstances exist in the present case. Therefore, the Tribunal does not object to or disapprove the terms of the Agreement and is satisfied the Agreement constitutes a *bona fide* settlement of the present case.

- 6.3 In accordance with the mutual consent of the Parties, the Tribunal hereby directs the Parties to fully comply with all the terms of the Agreement as set forth in Article 4 above. Further, this Decision shall terminate the present case 2017/BS19 – BLAZE OF GLORY II.

7. Decision

- 1) The Tribunal rules that the Agreement executed by the FEI and the PR, Mr. Henry Turrell, concerning the case 2017/BS19 BLAZE OF GLORY II is hereby ratified by the Tribunal with the consent of the Parties and its terms are incorporated into this Decision.
- 2) This Decision is subject to appeal in accordance with Article 12.2 of the EAD Rules. An appeal against this Decision may be brought by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.
- 3) This Decision shall be published in accordance with Article 13.3 of the EAD Rules.

IV. DECISION TO BE FORWARDED TO:

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

FOR THE PANEL



THE CHAIRMAN, Mr. Henrik Arle