



## **DECISION of the FEI TRIBUNAL**

**dated 8 November 2011**

### **Positive Controlled Medication Cases No.:**

2011/CM02; 2011/CM03; 2011/CM04;

**Horse:** ANWAR ALMAMMLAKAH

**FEI Passport No:** AUS / 40452

**Horse:** FREEDOM'S GRACE

**FEI Passport No:** 102TP66

**Horse:** ANWAR ALMAMMLAKAH

**FEI Passport No:** AUS / 40452

**Person Responsible:** Homoud Salman Alshammari

**Events:** CEI2\*-120km – Riyadh, KSA; CEI2\*-120km – Riyadh, KSA; CEI2\*  
120km – Dammam, KSA

**Prohibited Substances:** Triamcinolone Acetonide; Dexamethasone;  
Dexamethasone (Controlled Medication Substances)

### **1. COMPOSITION OF PANEL**

Mr. Patrick A. Boelens, chair  
Mr. Philip O'Connor, member  
Mr. Pierre Ketterer, member

### **2. SUMMARY OF THE FACTS**

**2.1 Memorandum of case: By Legal Department.**

**2.2 Summary information provided by Person Responsible (PR):**  
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.

**2.3 Oral hearing:** none; by correspondence

### **3. DESCRIPTION OF THE CASES FROM THE LEGAL VIEWPOINT**

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

Statutes 22<sup>nd</sup> edition, effective 15 April 2007, updates effective 1

January 2011 ("**Statutes**"), Arts. 1.4, 34 and 37.

General Regulations, 23<sup>rd</sup> edition, 1 January 2009, updates effective 1 January 2011, Arts. 118, 143.1, 161.2(v) and 169 ("**GRs**").

Internal Regulations of the FEI Tribunal, effective 15 April 2007, updated 1 February 2008.

FEI Equine Anti-Doping and Controlled Medication Regulations ("**EADCM Regulations**"), 1<sup>st</sup> edition, effective 5 April 2010, updates effective 1 January 2011.

FEI Equine Controlled Medication Rules ("**ECM Rules**"), 1<sup>st</sup> edition, effective 5 April 2010, updates effective 1 January 2011.

Veterinary Regulations ("**VRs**"), 12<sup>th</sup> edition, effective 5<sup>th</sup> April 2010, updates effective 1 January 2011, Art. 1013 and seq. and Annex II (the "Equine Prohibited List").

FEI Code of Conduct for the Welfare of the Horse.

### **3.2 Person Responsible:** Homoud Salman Alshammari

### **3.3 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*. *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 – 2.7 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."

## **4. DECISION**

### **4.1 Factual Background**

1. ANWAR ALMAMMLAKAH participated at the CEI2\*-120km – in Riyadh (KSA) on 12 January 2011 (the "**Event 1**"), in the discipline of Endurance. The horse was ridden by Mr. Homoud Salman Alshammari, who is the Person Responsible in accordance with Article 118 of the GRs (the "**PR**").

2. FREEDOM'S GRACE participated at the CEI2\*-120km – in Riyadh (KSA) on 23 January 2011 (the "**Event 2**"), in the discipline of Endurance. FREEDOM'S GRACE was ridden by the PR.
3. ANWAR ALMAMMLAKAH participated at the CEI2\*-120km – in Dammam (KSA) on 10 February 2011 (the "**Event 3**"), in the discipline of Endurance. ANWAR ALMAMMLAKAH was ridden by the PR.
4. The horses were selected for sampling on 13 January 2011 (Event 1), 23 January 2011 (Event 2) and 10 February 2011 (Event 3).
5. Analysis of the blood sample no. 0133994 taken from ANWAR ALMAMMLAKAH at Event 1 was performed at the FEI approved laboratory, the Hong Kong Jockey Club Racing Laboratory ("**HKJC**"), in Hong Kong (China), by Mr. Wai Him Kwok, Chemist, under the supervision of Mr. Terence See Ming Wan, Head of Racing Laboratory. The analysis of the sample revealed the presence of Triamcinolone Acetonide (Test Report no 11-0122 dated 28 January 2011).
6. Analysis of the blood sample no. 0133993 taken from FREEDOM'S GRACE at Event 2 was performed at the HKJC, by Mr. Nola Hua Yu, Chemist, under the supervision of Mr. Terence See Ming Wan. The analysis of the sample revealed the presence of Dexamethasone (Test Report no 11-0176 dated 10 February 2011).
7. Analysis of the blood sample no. 0133970 taken from ANWAR ALMAMMLAKAH at Event 3 was performed at the HKJC, by Mr. Colton Ho Fai Wong, Chemist, under the supervision of Mr. Terence See Ming Wan. The analysis of the sample revealed the presence of Dexamethasone (Test Report no 11-0307 dated 1 March 2011).
8. The Prohibited Substances detected are Triamcinolone Acetonide and Dexamethasone. Triamcinolone Acetonide is a corticosteroid commonly used to treat osteo arthritis. Dexamethasone is a commonly used corticosteroid of inflammatory conditions and hypersensitivity. Both Triamcinolone Acetonide and Dexamethasone are classified as Controlled Medication Substances under the FEI Equine Prohibited Substances List.
9. No request had been made to administer Triamcinolone Acetonide or Dexamethasone to the horses, and no medication form had been submitted for the use of the Prohibited Substance in either of the cases.

#### **4.2 The Proceedings**

10. The presence of the Prohibited Substance following the

laboratory analysis, the possible rule violations and the consequences implicated, were officially notified to the PR, through the Saudi Arabian Equestrian Federation ("KSA-NF"), by the FEI Legal Department on 10 March 2011 (Case 2011/CM02 – ANWAR ALMAMMLAKAH), 15 March 2011 (Case 2011/CM03 – FREEDOM'S GRACE) and 15 April 2011 (Case 2011/CM04 – ANWAR ALMAMMLAKAH). The PR was also informed in the respective Notification Letters that due to a Medication Control Rule violation committed by him in December 2009 (Case 2010/FT05 – AL LUGHEZ), the period of Ineligibility to be imposed on him was at the discretion of the Hearing Panel, and that increased penalties should be imposed for multiple violations up to and including three (3) years Ineligibility, if so warranted, in accordance with Articles 10.6.1 and 10.6.3 of the ECM Rules. With regards to the horse ANWAR ALMAMMLAKAH, the FEI also requested the suspension of the horse with the Notification Letters of 10 March 2011 and 15 April 2011 insofar as ANWAR ALMAMMLAKAH had been subject to a Medication Control Rule violation in 2009 (Case 2009/FT07 – ANWAR ALMAMMLAKAH). The owner of ANWAR ALMAMMLAKAH also received copies of the two respective Notification Letters of 10 March 2011 and 15 April 2011.

#### **4.3 The B-Sample Analysis**

11. Together with the Notification Letters of 10 March 2011, 15 March 2011 and 15 April 2011, the PR received notice that he was entitled to the performance of a B-Sample confirmatory analysis on the respective positive sample. The PR was also informed of his right to attend or be represented at the respective B-Sample analysis, and to request that the respective B-Sample be analysed in a different Laboratory than the A-Sample.
12. The PR declined to exercise his right to have the B-Sample confirmatory analyses performed.

#### **4.4 The Further Proceedings**

13. By email of 3 April 2011, the KSA-NF, on behalf of the PR, submitted the PR's response in the cases 2011/CM02 – ANWAR ALMAMMLAKAH and 2011/CM03 – FREEDOM'S GRACE. The submission included a statement by the Director of Kingdom Stables, Riyadh (KSA) (the "Stables") of 28 March 2011, two statements by the PR of the same date as well as a statement by Dr. John Gladson, Veterinary Surgeon at Ramz Al Sharq Equine Services, dated 22 March 2011. The Director of the Stables in his statement referred to Case 2011/CM02 and Case 2011/CM03 and contended that the PR had no relation or knowledge of the medication administered to the horses at the Stables, neither prior to the Competition or at the time of the Competition, insofar as his role was limited to riding the horse during the event. The Director further stated that the nutrition and medical program of the horses

at the Stables was completely under the responsibility of the Stables' administration. The PR, in his statements, also addressed Case 2011/CM02 and Case 2011/CM03. He explained that he would accept the disqualification of the respective results and the return of prize money won, but opposed any financial sanction and the imposition of a suspension. The PR further stated that he would have "nothing to do" with the matter, and that the medicine had been given to the horses by the veterinary of the Stables "*according to the scientific standards and systems observed in administering such substance to race horses*", even six days prior to the Competition instead of four days as allegedly requested by the standards. That he as rider would not know the substances, their effects and how long they remained in the horse's body, and that he had simply followed the veterinarian's instructions. The PR highlighted that at the Stables, his role as rider was limited to riding the horse at the competition, and that he was not involved and had no opinion about the nutrition and medicine program of the horse, being under the total responsibility of the Stables' administration. Dr. Gladson in his statement provided several details about medication administered to horses in the Stables. According to the information provided, ANWAR ALMAMMLAKAH had been administered a back injection using "Dexiana Retard", a combination of Dexamethasone and Prednisolone, on 4 October 2010. On 7 January 2011, ANWAR ALMAMMLAKAH received another back injection of Dexiana Retard and Saracin, and injections of Halovisc and Triamcnenolone in each joint. The statement by Dr. Gladson also listed a back injection of Dexiana Retard, on 19 November 2011, of a "Thoroughbred Race Horse".

14. By email of 30 May 2011, the KSA-NF submitted another statement by the PR, related to Case 2011/CM04 - ANWAR ALMAMMLAKAH. By that statement, the PR repeated word by word the explanations and statements of the two statements provided in the context of the two earlier cases.

15. Also on 30 May 2011, the FEI replied to the KSA-NF, stating that in light of the fact that the PR was subject of three pending anti-doping cases, the respective proceedings would be consolidated, and a single decision be taken by the FEI Tribunal.

#### **4.5 Jurisdiction**

16. The Tribunal has jurisdiction over these matters pursuant to the Statutes, GRs and ECM Rules.

#### **4.6 The Person Responsible**

17. The PR is the Person Responsible for the two horses, in accordance with Article 118.3 of the GRs, as he was the rider of the horses at the three Events.

## 4.7 The Decision

18. The Tribunal is satisfied that the laboratory reports relating to the A-Samples reflect that the analytical tests were performed in an acceptable manner and that the findings of the HKJC are accurate. The Tribunal is satisfied that the test results evidence the presence of Triamcinolone Acetonide and Dexamethasone in the samples taken from the horses at the Events. Triamcinolone Acetonide and Dexamethasone are classified as Controlled Medication Prohibited Substances by the FEI Prohibited Substances List. The PR did not contest the accuracy of the test results or the positive findings.
19. The FEI has thus established three *Adverse Analytical Findings*, and has thereby sufficiently proven the objective elements of three offences in accordance with Article 3 of the ECM Rules.
20. In cases brought under the EADCMRs, a strict liability principle applies as described in Article 2.1.1 of the ECM Rules. Once a positive case has been established by the FEI, the PR has the burden of proving that he bears "No Fault or Negligence" for the positive findings as set forth in Article 10.4.1 of the ECM Rules, or "No Significant Fault or Negligence," as set forth in Article 10.4.2 of the ECM Rules.
21. However, in order to benefit from any elimination or reduction of the applicable sanction under Article 10.4 of the ECM Rules, the PR must first establish how the Prohibited Substances entered the Horse's system. This element is a prerequisite to the application of Article 10.4 of the ECM Rules. With regard to the standard of proof to be met by the PR, Article 3.1 of the ECM Rules, second sentence, stipulates that the PR has to establish "*specified facts or circumstances*" "*by a balance of probability*".

### 4.7.1. ANWAR ALMAMMLAKAH (Case 2011-CM02)

22. The Tribunal finds that the PR, through the statement by Dr. Gladson, has established how the Triamcinolone Acetonide, detected in the horse's sample taken on 13 January 2011, entered into the horse's system. In fact, the back injection of Triamcinolone administered to the horse on 7 January 2011 would, in the understanding of the Tribunal, still be detectable 7 (seven) days after administration, i.e. also on the date of sampling. The Tribunal is however of the opinion that the Dexamethasone and Prednisolone allegedly also administered to the horse on 7 January 2011 would normally also have been detected by the laboratory, 6 (six) days following administration. However, the Tribunal does not have any doubts about the analytical work performed by HKJC Laboratory, and rather considers the report by Dr. Gladson to not be very accurate and reliable. The Tribunal finds however that the PR has established how the Prohibited Substance entered into the horse's system.

Conclusively, the Tribunal has to address the question whether the PR demonstrated that he bore "No Fault or Negligence" or "No Significant Fault or Negligence" for the positive finding as required by ECM Rules Articles 10.4.1 and 10.4.2 in order to eliminate or reduce the sanctions. The main argument by the PR in this context however, that he had "*nothing to do*" with the matter insofar as he did not know the substance given to the horse and its effects, and that the veterinarian of the horse's Stables had the sole responsibility for the rule violation as he had administered the Prohibited Substance, is not acceptable to the Tribunal and does not release the PR from his liability for the rule violation. The ECM Rules require that the Person Responsible ensures "*that no Banned Substance is present in the Horse's body*", ECM Rules Article 2.1. Given the wording "ensure", the responsibility of Persons Responsible is very broad. Persons Responsible need to take a variety of actions, such as for example following the horse's health history on a regular basis, informing themselves with the veterinarian and other people in charge of the care and well-being of the horse and obtaining written statements by the relevant individuals about the use of Prohibited Substances on the horse prior to the competition. The Tribunal therefore decides that the circumstances argued by the PR do not alter the allocation of liability under the ECM Rules, and that the liability therefore remains with the PR. Conclusively, the PR did not establish that he bears "No Fault or Negligence" or "No Significant Fault or Negligence" for the rule violation as required by ECM Rules Articles 10.4.1 and 10.4.2. No elimination or reduction of sanctions is therefore possible.

#### **4.7.2. FREEDOM'S GRACE (Case 2011-CM03)**

23. The information provided by Dr. Gladson does not contain any details about the horse FREEDOM'S GRACE. The information provided regarding the administration of Dexiana Retard, on 19 November 2011, to a "Thoroughbred Race Horse", is very unspecific, since not connectable to any particular horse. Moreover, the Tribunal is convinced that even if the substances would have been administered to FREEDOM'S GRACE in mid November 2010 (instead of mid November 2011), this would not have led to the positive test result on 23 January 2011. In the absence of any other explanation by the PR, the Tribunal holds that the PR failed to establish how the Prohibited Substance entered into FREEDOM'S GRACE's system. The Tribunal therefore does not have to address the question whether the PR demonstrated that he bore "No Fault or Negligence" or "No Significant Fault or Negligence" for the positive finding as required by ECM Rules Articles 10.4.1 and 10.4.2. No elimination or reduction of sanctions is therefore possible.

#### **4.7.3. ANWAR ALMAMMLAKAH (Case 2011-CM04)**

24. With regards to the question as to how the Dexamethasone could

have entered the sample of ANWAR ALMAMMLAKAH taken on 10 February 2011, the information provided by Dr. Gladson does not provide any answers. Insofar as the PR does not provide any further explanations, the Tribunal finds that it has not been established how the Dexamthasone entered the horse's system. The first prerequisite for any elimination or reduction of sanctions has therefore not been met by the PR.

25. According to ECM Rules Article 9, a violation of the ECM Rules in connection with a test conducted at a Competition automatically leads to the Disqualification of the result of the Person Responsible and Horse combination obtained at that Competition.

#### **4.7.4. The Request by the FEI to Suspend the horse**

26. In light of the earlier 2009 case involving the horse ANWAR ALMAMMLAKAH, and considering further the fact that ANWAR ALMAMMLAKAH is subject of the present two Controlled Medication cases in 2011, the Tribunal considers that a suspension of ANWAR ALMAMMLAKAH is adequate and necessary in order to preserve and protect the welfare of the horse. The Tribunal bases its competence for this decision on GRs Article 161.2(v).
27. According to Article 168.4 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.

#### **4.8 Disqualification**

28. For the reasons set forth above, the FEI Tribunal is disqualifying the horse and the PR combinations from the Competitions and all medals, points and prize money won at the Competitions must be forfeited, in accordance with Article 9 ECM Rules.

#### **4.9 Sanctions**

29. Under the applicable ECM Rules, the sanction for an Adverse Analytical Finding for a Controlled Medication Substance is a period of Ineligibility of up to two (2) years, for first time offenders. The Tribunal takes note however that the 2010 case of the PR is to be considered as first offence of the PR. The Tribunal does not think that any of the three cases at hand count as third offence in accordance with Article 10.6.2, first sentence, of the ECM Rules insofar as the PR had committed the three violations before having received notice of any of the three related cases. However, the Tribunal finds that the occurrence of the multiple violations has to be considered as a factor in determining aggravating circumstances under Article 105 of the ECM Rules, in accordance with Article 10.6.2, third sentence, of the ECM Rules. Overall, the present violations however have to be considered as second violation by the PR.



30. The FEI Tribunal therefore imposes the following sanctions on the PR and the horse ANWAR ALMAMMLAKAH, in accordance with Articles 161.2(v) and 169 of the GRs, and Article 10 of the ECM Rules:

- 1) The PR shall be suspended for a period of **eighteen (18) months** to be effective immediately and without further notice from the date of the notification. Therefore, the PR shall be ineligible through 7 May 2013.
- 2) The horse ANWAR ALMAMMLAKAH shall be suspended for a period of **eighteen (18) months**, to be effective immediately and without further notice from the date of the notification. Therefore, the horse shall be ineligible through 7 May 2013.
- 3) The PR is fined **CHF 1.000.-**.
- 4) The PR shall contribute **CHF 1.500.-** 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: Owner of ANWAR ALMAMMLAKAH**

**FOR THE PANEL**



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**THE CHAIRMAN, Mr. Patrick A. Boelens**