

DECISION of the FEI TRIBUNAL

dated 25 January 2021

in the matter of

Mr Jefferson Martins Maquieira

(FEI Case number: FEI 2020/BS04 – GUCCI)

FEI Tribunal Hearing Panel:

Ms Diane Pitts (USA), one-member panel

FEI Tribunal Reference: C21-0002

Person Responsible/ID/NF: Jefferson MARTINS MAQUIEIRA/10027611/BRA

Event/ID: CSI2* - San Miguel de Allende (MEX), 2019_CI_1148_S_S_01

Date of Event: 03-06.10.2019

Prohibited Substance: Boldenone, Boldienone

Bar Code Nos.: 5579839

I. **Factual background**

1. Mr Jefferson Martins Maquieira (FEI ID 10027611), the Person Responsible ("**the PR**") and rider for Brazil, competed with the Horse GUCCI ("**the Horse**") at the CSI2* in San Miguel de Allende, Mexico between 03-06 October 2019 ("**the Event**").
2. The Fédération Equestre Internationale ("**the FEI**" 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).
3. At the occasion of the Event, the Horse was tested, and returned a positive result for Boldenone and Boldienone, which are Banned Substances under the FEI's Equine Prohibited Substances List. Boldienone and Boldenone are anabolic steroids with anabolic effects that increase muscle mass and modify behaviour. Boldienone results from the biotransformation of Boldenone.
4. Quantitative analysis revealed a concentration of 26.8 nanograms per millilitre of free and conjugated Boldenone in urine which is greater than the internationally agreed threshold of 15 nanograms of free and conjugated Boldenone per millilitre in urine for male horses (other than geldings).
5. The positive finding of Boldienone and Boldenone above the internationally agreed threshold in the Horse's sample gave rise to an Anti-Doping Rule Violation.
6. As a consequence of said positive result, the PR was provisionally suspended by the FEI as of 22 January 2020, in accordance with art. 7.4.1 of the FEI Equine Anti-Doping Rules (the "**EAD Rules**"). The PR was informed of his suspension by way of a notification letter from the FEI on 22 January 2020, informing him of a possible violation of Article 2.1 (*The Presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample*) of the EAD Rules.

II. Initial Proceedings

7. On 22 January 2020, the FEI Legal Department officially notified the PR, the Brazilian Equestrian Federation ("**BRA-NF**") and the Mexican Equestrian Federation, of a violation of Article 2.1 (The Presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample) of the EADRs, based on the Laboratory's Adverse Analytical Finding of Boldienone and Boldenone in the Horse's Sample collected at the Event and the potential consequences (the "**Notification Letter**").
8. Upon request from the FEI, the PR submitted three positions, between 12 and 18 March 2020, which will be addressed *infra*, under V.
9. On 1 July 2020, and again on 13 July 2020, the FEI tried to contact the owners of the Horse, who never responded.

III. Further Proceedings

10. By email dated 19 January 2021, the FEI submitted its request to the FEI Tribunal for the appointment of a hearing panel for the adjudication and approval of a Settlement Agreement. In view of the agreement reached between the parties, the ineligibility period would terminate on 21 January 2021 at midnight, i.e. two days after the Settlement Agreement had been sent by the FEI.
11. On 21 January 2021, the FEI Tribunal informed the Parties of the appointment of a one-person hearing panel to adjudicate and approve this case. The Parties were asked to provide any objections to the constitution of the hearing panel.
12. On 21 January 2021, the FEI informed the FEI Tribunal that it did not have any objections to the constitution of the hearing panel.
13. On 21 January 2021, the PR informed the FEI Tribunal that he did not have any objections to the constitution of the hearing panel.
14. On 21 January 2021, the Brazilian Equestrian Federation informed the FEI Tribunal that it did not have any objections to the constitution of the hearing panel.
15. Neither party requested an oral hearing.

IV. Considering

A. Articles of the Statutes/Regulations which are, *inter alia*, applicable:

Statutes 24th edition, effective 19 November 2019 (“**Statutes**”), Arts. 1.5, 38 and 39.

General Regulations, 24th edition, 1 January 2020, Arts. 118, 143.1, 159, 164, 165 and 167 (“**GRs**”).

Internal Regulations of the FEI Tribunal, 3rd Edition, 2 March 2018 (“**IRs**”).

FEI’s Equine Anti-Doping and Controlled Medication Rules, Based upon the 2015 WADA Code, effective 1 January 2015 (“**EADCM Rules**”).

The World Anti-Doping Code - International Standard – Prohibited List – January 2019 (“**WADA Prohibited List**”).

B. Person Responsible: Mr Jefferson Martins Maquieira.

C. 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.”

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* may be considered additionally responsible under this Article and 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: "In cases where the Administrative Procedure, as set out in Article 8.3 below, is not available, at any time during the results management process the *Person Responsible* and/or member of the *Support Personnel* and/or *Owner* against whom an anti-doping 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."

V. The Parties' Submissions

A. The Submissions of the PR:

16. The PR submitted his positions in the context of the present FEI proceedings, between 12 and 18 March 2020.
17. The PR has been involved in equestrian sports for 47 years, including more than 15 years of experience competing internationally, and he started competing in 1986, when he was 14 years old. He has never experienced, in all those years, any problems of this nature.
18. When notified of the anti-doping rule violation, the PR was very surprised, and started immediately to investigate as to the reasons behind this rule violation. In this respect, he contacted the veterinarian, the stable boys (grooms), the owners as well as the people who worked with them, to get explanations.
19. The PR submitted, in the course of these proceedings, various documents and exchanges in relation to the abovementioned stakeholders, i.e:
 - An email sent to the owner summarising the terms of their agreement with attachments, signed by the owner;
 - A written statement of the designated veterinarian of the Horse;
 - Blood analysis results of the Horse;

- Medical examination forms of the Horse;
 - A written statement by one of the grooms of the Horse that took care of the Horse and attended competitions with the PR;
 - A written statement of the driver;
 - A written statement by one of the owners whose horses are stabled in the same stable as the Horse;
 - A written statement of the parents whose daughter is training with the PR.
20. The various information and elements provided came in support to the explanations of the PR as to how the prohibited substances entered into the Horse's system.
21. The PR alleges that Boldenone was contained in the product Equigan, which was administered to the Horse at least on two occasions, i.e. on 4 September 2019 and on 22 September 2019. The product Equigan was administered by the Horse's owners and driver (upon request from the owners), who thought that this product would improve the semen quality of the Horse, who had reproductivity issues.
22. This unfortunate situation seems to have happened despite a strict protocol put in place by the PR, as evidenced by an email he had sent to the owners on 9 January 2019, outlining the terms of their collaboration.

B. The Submission of the FEI:

23. On 19 January 2021, the FEI provided the FEI Tribunal with the Settlement Agreement reached between the Parties, which contains accordingly the FEI's position. In particular, the FEI is of the opinion that:
- (i) The product Equigan does contain the active substance Boldenone undecylenate, a long lasting anabolic, in injectable form.
 - (ii) It is well-established that Boldenone can be detected long after its administration, having a biological half-life of 14 days.
 - (iii) *In casu*, the Horse was administered Equigan on at least two occasions, i.e. on 4 September 2019 and on 22 September 2019, the latter being only 12 days prior to the sample collection which took place on 4 October 2019.

- (iv) Therefore, the explanation provided by the PR is scientifically plausible.
- (v) The PR has thus established, on a balance of probabilities, and based also on the various witness testimonies, how Boldenone and Boldienone entered the Horse's system.
- (vi) With respect to the duration of the ineligibility period to be imposed, the FEI took into consideration (a) the great efforts put in place by the PR in establishing and applying a rigid and strict anti-doping protocol, which he had submitted to the owners, (b) this protocol was confirmed by the groom and the designated veterinarian, (c) the PR was upfront, clear and adamant as from the beginning, and also provided training and educated his Support Personnel to apply and understand the relevant FEI Rules and (d) the Adverse Analytical Finding happened *in casu* because a member of the Support Personnel (i.e. the owner) acted against the PR's explicit instructions and protocol.
- (vii) In view of the above, the FEI is of the opinion that the PR could not have reasonably known or suspected that the owner would administer a Banned Substance to the Horse.
- (viii) Based on the elements and evidence produced, the FEI is satisfied that the PR bears No Significant Fault or Negligence for the rule violation in accordance with Art. 10.5.2 of the EAD Rules. Furthermore, No Fault or Negligence pursuant to art. 10.4 of the EAD Rules for the Rule Violation cannot apply in the present case since the Banned Substance was administered by a member of the Support Personnel.
- (ix) All in all, the Ineligibility Period to be imposed on the PR shall be one (1) year, and a fine, lowered based on the PR's request and elements provided in support of his difficult financial situation, amounting to 1'500 CHF shall be imposed on the PR.

VI. The Decision

24. Agreement between the Parties:

Quote

3. NOW, THEREFORE, THE PARTIES HAVE AGREED (SUBJECT ONLY TO THE APPROVAL OF THE FEI TRIBUNAL) TO THE FOLLOWING TERMS FOR THE CLOSURE OF THE PROCEEDINGS:

3.1 In the matter of the Adverse Analytical Finding related to the samples, which were collected from the PR's horse GUCCI at the CSI* in San Miguel de Allende, Mexico on 4 October 2019, the PR and the FEI agree in accordance with 7.6.1 EAD Rules on the following:

- (a) The PR admits the violation of Article 2.1 of the EAD Rules (*The presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample*);
- (b) The PR established on a balance of probabilities how Boldenone and Boldienone entered the Horse's system;
- (c) The PR bears No Significant Fault or Negligence for the Rule Violation and the applicable period of Ineligibility shall be one (1) year, commencing from the date of the Final Decision (the Provisional Suspension already served by the PR shall be credited against the imposed Ineligibility Period)
- (d) In accordance with Articles 9.1 and 10.1.2 of the EAD Rules the results achieved by the PR and the Horse at the Event are disqualified, with all resulting consequences, including forfeiture of any related medals, points and prizes;
- (e) The PR shall pay a fine of 1.500 CHF;
- (f) Each party will bear its own legal and other costs incurred in connection with these proceedings;
- (g) No other Sanctions will apply in this case;
- (h) This violation of the EAD Rules shall be considered a prior violation for the purpose of Multiple Violations in accordance with Articles 10.8 of the EAD

Rules.

- 3.2 This agreement is made in accordance with Article 7.6.1 of the EAD Rules and is subject to the approval of the FEI Tribunal. The Agreement will be included in a Final Decision of the FEI Tribunal. Consequently, it will be communicated to the Parties with a right of appeal in accordance with Article 12.2 of the EAD Rules.
- 3.3 The parties acknowledge and agree that, pursuant to Article 13.3 of the EAD Rules, the Decision will be made public by the FEI. The terms set out in this agreement have been agreed as a full and final settlement of all claims relating to the subject-matter of these proceedings.

*** End Quote***

VII. Jurisdiction

25.

- (a) The FEI Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 159 of the GRs, the EAD Rules, as well as Article 18 of the IRs.
- (b) The PR is a member of the Brazilian Equestrian Federation, and as such is bound by the EAD Rules.
- (c) Article 7.6.1 of the EAD Rules provides for agreements to be reached between parties; subject to approval by the FEI Tribunal.
- (d) As a result, the Tribunal has the requisite jurisdiction to approve and issue this Decision.

VIII. Approval of Agreement

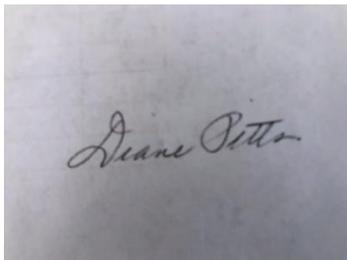
26. Having reviewed the Case Summary, the Full Reasoning for the Agreement and the terms of the Agreement, the Tribunal takes note that the FEI accepts – on a balance of probabilities – that the PR bears No Significant Fault or Negligence for his first anti-doping rule violation.

27. Furthermore, the Tribunal also takes note that the FEI is satisfied that the sanction of one (1) year of Ineligibility period will be proportionate for this anti-doping rule violation.
28. The Tribunal wishes to emphasise that it did not evaluate whether the PR has met the burden of proof regarding the level of Fault or Negligence for this anti-doping rule violation. Furthermore, the Tribunal highlights that the present agreement does not constitute jurisprudence, and as such when reviewing it did not consider previous case law. The Tribunal emphasises that the decision in this case depends on the particular circumstances disclosed as set out above.
29. To conclude, the Tribunal finds that the Agreement between the Parties could be considered as within the consequences that are mandated by the EADCM Rules.
30. Therefore, and 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, and to revise the results, including team results if applicable, of the Event accordingly. Further, this Decision shall terminate the present case 2020/BS04 GUCCI.

IX. Decision

1. The Tribunal rules that the Agreement reached between the FEI and the PR, Mr Jefferson Martins Maquieira concerning the case 2020/BS04 GUCCI (C21-0002 Jefferson Martins Maquieira) is hereby ratified by the Tribunal with the consent of the Parties, and its terms set out in Paragraph VI above are incorporated into this Decision.
2. This Decision is subject to appeal in accordance with Article 12.2 of the EADCM 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 notified to the PR, to the NF of the PR, and to the FEI.
4. This Decision shall be published in accordance with Article 13.3 of the EADCM Rules.

FOR THE FEI TRIBUNAL

A rectangular box containing a handwritten signature in cursive script that reads "Diane Pitts".

Ms Diane Pitts, One-Member Panel