

DECISION of the FEI TRIBUNAL

dated 5 February 2021

in the matter of

Ms Mariajose CAMAS

(FEI Case number: FEI 2018/BS19 – DOLLY PALO BIANCO)

FEI Tribunal Hearing Panel:

Mr José A. Rodriguez Alvarez (MEX), one-member panel

FEI Tribunal Reference: C20-0056

Support Personnel/ID/NF : Mariajose CAMAS / 10093995 / GUA

Event/ID: C.Am+Caraib Games-S - Bogotá (COL), 2018_GC.Am+Caraib_0001_S_S_01

Date of Event: 25-29.07.2018

Prohibited Substance: Diisopropylamine

Bar Code Nos.: 5572098

I. **Factual background**

1. Mr Alvaro Enrique Tejada Arriola (FEI ID 10000668), the Person Responsible ("**the PR**"), competed with the Horse DOLLY PALO BIANCO ("**the Horse**") at the Central American and Caribbean Games (CAC Games) C.Am + Caraib Games-S ("**the Event**") in Bogotá (COL), on 25-29 July 2018.
2. At the occasion of the Event, the Horse was treated by Dr. Mariajose Camas (FEI ID 10093995), a FEI Veterinarian from Guatemala, who was therefore the Support Personnel ("**the SP**") for the Horse.
3. The Fédération Equestre Internationale ("**the FEI**" together with the SP, "**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).
4. At the occasion of the Event, the Horse was tested, and returned a positive result for Diisopropylamine, which is a Prohibited Substance under the FEI's Equine Anti-Doping and Controlled Medication Rules ("**the EADCM Rules**"). Diisopropylamine is a vasodilator used in the treatment of peripheral and cerebral vascular disorders, which gives, in case of positive finding, rise to an Anti-Doping Rule Violation.
5. As a consequence of said positive result, the PR was sanctioned by the FEI Tribunal with a twelve months ineligibility period (cf. Decision of the FEI Tribunal dated 11 February 2019 in the case 2018/BS19).
6. In her capacity as a Veterinarian, the SP was the Permitted Treating Veterinarian ("**PTV**"), both as the Guatemalan team veterinarian, as well as the personal veterinarian of the PR's horses out of competition.
7. In accordance with Art. 2.2 of the FEI Equine Anti-Doping Rules ("**the EADRs**"), it is the personal duty of the Support Personnel to ensure that no Banned Substance enters into the Horse's body.

II. Initial Proceedings

8. On 8 November 2018, the FEI Legal Department officially notified the SP and the Equestrian Federation of Guatemala ("**GUA-NF**"), of a violation of Article 2.2 (Use or Attempted Use of a Banned Substance or a Banned Method) of the EADRs, based on the Laboratory's Adverse Analytical Finding of Diisopropylamine in the Horse's Sample collected at the Event and the potential consequences (the "**Notification Letter**").
9. The Notification Letter included notice that since the SP is an official FEI Veterinarian, Endurance Veterinary Treatment Official and FEI Permitted Treating Veterinarian, the FEI find the allegations very serious.
10. The SP was requested to provide the FEI with her explanations in response to the allegations mentioned in the Notification Letter.
11. Even prior to said Notification Letter, the SP had acknowledged, on 2 November 2018, that she failed in her duty of care, and admitted the Rule Violation in a statement submitted in the context of the proceedings opened against the PR (cf. above, par. 5). In this respect, the Parties agreed that the application of the Prompt Admission pursuant to Art. 10.6.3 EADR could apply in the present matter.

III. Further Proceedings

12. By email dated 10 November 2020, 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.
13. On 23 November 2020, 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 by 26 November 2020.
14. On 23 November 2020, the FEI informed the FEI Tribunal that it did not have any objections to the constitution of the hearing panel.
15. On 7 December 2020, the SP confirmed, via her legal representative, her agreement with the Settlement Agreement (and its annexes) submitted to the FEI Tribunal by the FEI.

16. 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 Alvaro Enrique Tejada Arriola.

C. Support Personnel: Ms Mariajose Camas

D. 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. 2.2.1: “It is each *Person Responsible’s* personal duty, along with members of their *Support Personnel*, to ensure that no *Banned Substance* enters into the *Horse’s* body and that no *Banned Method* is Used. Accordingly, it is not necessary

that intent, fault, negligence or knowing *Use* on the part of the *Person Responsible*, or member of his *Support Personnel* (where applicable), be demonstrated in order to establish an *EAD Rule* violation for *Use* of a *Banned Substance* or a *Banned Method*. However, in accordance with the definition of *Attempt*, it is necessary to show intent in order to establish an *EAD Rule* violation for *Attempted Use* of a *Banned Substance* or a *Banned Method*".

EAD Rules Article 7.6.1: "In cases where the *Special Procedure for Minors*, 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 SP:

17. The SP submitted her position initially, on 2 November 2018, as a witness in the proceedings opened against the PR. She provided complementary explanations in the context of the present FEI proceedings, on 6 December 2018. Finally, on 7 December 2020, the SP confirmed to the FEI Tribunal that she agreed with the Settlement Agreement reached with the FEI.
18. As an official FEI Veterinarian, the SP regularly checks the FEI Prohibited Substances List, to make sure to know which substances are prohibited and which are not. Before administering the Top B15+3, she also checked all ingredients of said product, and none of the listed ingredients were prohibited. She also consulted with a veterinarian colleague, also FEI accredited, which confirmed her that the product Top B15+3 was not prohibited.

19. Despite the fact that, according to the SP, the prohibited substance Diisopropylamine should not have been part of the product, the SP admitted to the anti-doping rule violation and took full responsibility for it.

B. The Submission of the FEI:

20. On 10 November 2020, 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 SP promptly admitted the violation of Art. 2.2 of the EAD Rules;
- (ii) The SP has established, on a balance of probabilities, how the Diisopropylamine entered the Horse's system;
- (iii) The SP bears No Significant Fault or Negligence for the rule violation;
- (iv) Substantial delays in the proceedings occurred, not attributable to the SP;
- (v) The Ineligibility Period shall be backdated to the date of the SP's last appointment as a FEI Veterinarian, i.e. on 20 January 2020;
- (vi) The Ineligibility Period to be imposed on the SP shall be seventeen (17) months, and a fine amounting to 1'500 CHF.

VI. The Decision

21. 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 DISPOSAL OF THE ANTI-DOPING PROCEEDINGS:

- 3.1 The Support Personnel and the FEI agree in accordance with 7.6.1 EAD Rules on the following:

3.2 The Support Personnel:

- (i) promptly admits the violation of Article 2.2 of the EAD Rules;
- (ii) waives her right to a final hearing; and
- (iii) cooperates with the FEI fully with respect to her case.

3.3 The FEI is satisfied that the Support Personnel has established:

- (i) on a balance of probabilities how the Diisopropylamine entered the Horse's system;
- (ii) that she bore No Significant Fault or Negligence for the rule violation.

3.4 The Parties agree that:

- (i) the Support Personnel bears No Significant Fault or Negligence for the rule violation;
- (ii) a period of ineligibility of seventeen (17) months shall be imposed on the Support Personnel;
- (iii) the application of Prompt Admission and Delays not attributable to the Support Personnel shall apply, and therefore the start of the ineligibility period shall be backdated on the date of her last appointment as a FEI Veterinarian; starting on 20 January 2020 and ending on 19 June 2021.
- (iv) in accordance with Article 10.8.3 of the EAD Rules, this violation of the EAD Rules shall be considered a prior violation for the purpose of Article 10.8 (Multiple Violations) of the EAD Rules;
- (v) the Support Personnel shall incur a fine of 1 500 CHF and no legal costs.

3.5 The Parties hereby request that the FEI Tribunal issue a Decision incorporating the terms of this agreement.

- 3.6 The parties acknowledge and agree that, pursuant to Article 13.3 of the EAD Rules, the Decision will be made public by the FEI.
- 3.7 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. 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.
- 3.8 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.
- 3.9 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***

VII. Jurisdiction

22. The FEI Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 159 of the GRs, the ECM Rules, as well as Article 18 of the IRs. The SP is a FEI Veterinarian from Guatemala, and as such is bound by the EAD Rules. Article 7.6.1 of the EAD Rules provides for agreements to be reached between parties. As a result, the Tribunal has the requisite jurisdiction to approve and issue this Decision.

VIII. Approval of Agreement

23. 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 SP bears No Significant Fault or Negligence for her first anti-doping rule violation.
24. Furthermore, the Tribunal also takes note that the level of Fault or Negligence shall be situated in the higher range of the applicable sanction and the FEI are satisfied that the sanction of seventeen (17) months of Ineligibility period will be proportionate for this anti-doping rule violation.

25. The Tribunal wishes to emphasise that it did neither evaluate whether the SP 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.
26. 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.
27. 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 2018/BS19 Dolly Palo Bianco.

IX. Decision

1. The Tribunal rules that the Agreement reached between the FEI and the SP, Ms Mariajose Camas concerning the case 2018/BS19 Dolly Palo Bianco (C20-0056 Mariajose Camas) is hereby ratified by the Tribunal with the consent of the Parties, and its terms set out in Article 6 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 SP, to the President of the NF of the SP, and to the FEI.
4. This Decision shall be published in accordance with Article 13.3 of the EADCM Rules.

FOR THE FEI TRIBUNAL



Mr Jose A. Rodriguez Alvarez, One-Member Panel