

DECISION of the FEI TRIBUNAL  
dated 10 August 2021

in the matter of

Mr Pane Singh Amar SINGH

(FEI Case number: FEI 2019/BS39 – FELINE X)

and

Mr Fadhl Manea Saleh AL MATHIL

(FEI Case number: FEI 2019/BS39 FELINE X)

FEI Tribunal Hearing Panel:

Mr Jose A. Rodriguez Alvarez, one member panel

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FEI Tribunal reference: C21-0015

Horse/Passport: FELINE X / 106LV53 / GBR

Person Responsible/ID/NF: Pane Singh Amar SINGH /10048234/UAE

Additional Person Responsible/ID/NF: Fadhl Manea Saleh AL MATHIL /10110945/UAE

Event/ID: CEI1\* 80 - Euston Park (GBR) 2019\_CI\_0529\_E\_S\_03

Date of Event: 16.06.2019

Prohibited Substance(s): Atenolol

Bar Code No.: 5583931

## I. SUMMARY OF LEGAL AUTHORITY

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

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

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

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

FEI Equine Anti-Doping and Controlled Medication Regulations (“**EADCMRs**”), 2<sup>nd</sup> edition, changes effective 1 January 2019.

FEI Equine Anti-Doping Rules (“**EAD Rules**”), 2<sup>nd</sup> edition, changes effective 1 January 2019.

FEI Endurance Rules, updated 9<sup>th</sup> Edition, effective 1 February 2019

### 2. Person Responsible: Pane Singh Amar SINGH

### 3. Additional Person Responsible: Fadhl Manea Saleh AL MATHIL

### 4. 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.”

**FEI Endurance Rules, Art. 800:** “the “Trainer” is defined as the person who is in charge of the preparation of the Horse both physically and mentally for Competition. Prior to the Event, the Trainer is responsible for the conditioning

of the Horse for the Competition which involves the exercise programme, nutrition of the Horse, seeking appropriate veterinary care and the administration of therapeutic substances under veterinary advice.”

**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. 10.2:** “The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to a potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6, the period of Ineligibility shall be two years.

A Fine of up to CHF 15,000 shall also be imposed and appropriate legal costs.”

## II. Factual background

1. Mr Pane Singh Amar SINGH (FEI ID 10048234), the Person Responsible (hereinafter: **“the PR”**) is an endurance rider from the UAE. Mr Fadhl Manea Saleh AL MATHIL (FEI ID: 10110945), the Additional Person Responsible (hereinafter: **“the APR”**) is an FEI registered trainer from the UAE.
2. The Fédération Equestre Internationale (hereinafter **“the FEI”** and, together with the PR and the APR, **“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. The PR participated, with the horse FELINE X (hereinafter: **“the Horse”**) at the CEI1\* 80 in Euston Park (GBR), on 16 June 2019 (**“the Event”**). The APR was the registered trainer of the Horse at the occasion of the Event.
4. Urine and blood samples were collected from the Horse on 16 June 2019 and were sent to the FEI-approved Laboratory, the LGC, Newmarket Road, Fordham, Cambridgeshire, UK, for analysis. The Horse’s samples were divided into an A Sample and a B Sample, and were given the reference 5583931.
5. The Laboratory’s analysis of the A Sample reported the presence of Atenolol in the urine Sample.

6. Atenolol is a beta blocker used for the treatment of cardiac arrhythmias, hypertrophic cardiomyopathy and obstructive cardiac disease, and is a Prohibited Substance (Banned Substance) under the FEI's Equine Anti-Doping and Controlled Medication Regulations (hereinafter: "**the EADCM Rules**").
7. The adverse analytical finding of Atenolol gave rise to an Anti-Doping Rule Violation under the FEI EADCM Rules.
8. Following the abovementioned rule violation(s), the PR and the APR were provisionally suspended by the FEI, as of 26 August 2019, and were further informed that they had the opportunity to request for a Preliminary Hearing.
9. The PR did not submit any position to the FEI, and the APR submitted a short statement on 12 December 2019, which will be summarised below under par. III.

### III. Procedural background in front of the FEI Tribunal

10. Below is a summary of the relevant facts, allegations and arguments based on the Parties' written submissions, pleadings and evidence adduced. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, it only refers to the submissions and evidence it considers necessary to explain its reasoning in its decision.
11. By email dated 29 March 2021, the FEI submitted the case files to the Tribunal for adjudication of the present case. The United Arab Emirates Equestrian Federation (hereinafter: "**the UAE-NF**"), was copied to the FEI's correspondence.
12. On 13 April 2021, the Parties were informed of the composition of the Hearing Panel which was appointed to address the present matter. Furthermore, the PR and the APR were granted, via the UAE-NF, with the opportunity to respond to the FEI's request. The PR and the APR were informed that, should they fail to comply with the deadline provided, the Tribunal would decide the case using the file in its possession. The UAE-NF was also requested to provide the Tribunal with the personal contact details of the PR and the APR. Finally, the Parties were informed that they had the right to request for oral statements to be heard.
13. On 14 April 2021, the FEI advised having no objection to the composition of the Hearing Panel.
14. On 19 May 2021, the Tribunal noted having not received any position from the PR

and/or the APR within the deadline provided. The Tribunal also noted that the UAE-NF had not provided the personal contact details of the PR and the APR. A second and final deadline was granted to the UAE-NF to proceed accordingly. Furthermore, the Tribunal informed the Parties that, should the UAE-NF fail to comply with the deadline, the Tribunal would consider that the PR and the APR had been duly provided with the case files, and would then render a decision based on the files in its possession.

15. On 14 June 2021, the Tribunal noted that the 19 May 2021 correspondence remained unanswered by the Parties, and by the UAE-NF in particular. Thus, the Parties were informed that the Tribunal considered that the PR and the APR had been duly provided with the case files from the UAE-NF, and that they did not wish to provide any further comments in this case. The Parties were informed that the case file would then consist of the Response and annexes submitted by the FEI to the Tribunal on 29 March 2021, including the APR's explanations dated 12 December 2019.
16. No further submissions were provided, and neither party requested for oral statements to be heard in the present matter.

**A. Written submission by the PR & the APR**

17. As mentioned above, the PR did not submit any position with respect to the allegations brought against him by the FEI, neither during the FEI proceedings nor at the Tribunal's proceedings stage.
18. The APR submitted his position to the FEI on 12 December 2019.
19. The positive finding of Atenolol was not understandable for the APR. Upon receipt of the notification, he analysed the situation with his team, to determine how this positive finding could have occurred. Following an investigation, it appeared that one of his grooms has a heart condition and needs to take regularly antihypertensive pills. As a groom, he is working with the APR's team, and is therefore in contact with horses, and their feeding.
20. In view of the above, this is the only explanation that the APR could provide to explain the blood's contamination of the Horse. This would have occurred with medicines, used by someone with a heart condition, and which would have been around the race, that accidentally came into contact with the Horse's food or water.
21. While this is not an excuse in the APR's view, it remains the only option he can imagine of the situation.

22. No further explanations or evidence were provided by the PR and/or the APR.

**B. Written Response by the FEI**

23. On 29 March 2021, the FEI provided its Response in this case.

24. The FEI submitted that:

- a) The Trainer is to be considered as an APR under Article 118.3 of the GRs, as already indicated by the FEI Tribunal in past jurisprudence<sup>1</sup>. In Endurance, Trainers, by definition, take decisions with regard to horses they are the registered trainers for, and thus fulfil the requirements of Article 118.3 of the GRs.
- b) The APR has been the registered Trainer of the Horse for the Event in the FEI Database. Once a person is registered as a Trainer in the FEI database, he is irrefutably presumed to be the person responsible for taking relevant decisions on the conditioning of the Horse for the Competition.
- c) Article 3.1 of the EAD Rules makes it the FEI's burden to establish all the elements of the EAD Rule violation, to the comfortable satisfaction of the Tribunal.
- d) The elements of an Article 2.1 violation are straightforward. *"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"*. Instead it is a "strict liability" offence, established simply by proof that a Banned Substance was present in the Horse's sample. The results of the analysis of the A-sample taken from the Horse at the Event confirmed the presence Atenolol and constituted "sufficient proof" of the violation of Article 2.1 of the EAD Rules. In any event, the PR and the APR do not dispute the presence of the Prohibited Substance in the Horse's sample. Accordingly, the FEI submitted that it has discharged its burden of establishing that the PR and the APR have violated Article 2.1 of the EAD Rules.
- e) Where a Prohibited Substance is found in a horse's sample a clear and unequivocal presumption arises under the EAD Rules that it was administered to a horse in a deliberate attempt to enhance its performance. As a result of this presumption of fault, Article 10.2 of the EAD Rules provides that a Person Responsible / Additional Person Responsible with no previous doping offence, but who violated Article 2.1 of the EAD Rules is subject to a period of Ineligibility

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<sup>1</sup> Cf. Decisions dated 25 June 2020 (cases 2019/FT07 and 2019/CM08); Decision 2019/CM06

of two (2) years, unless he is able to rebut the presumption of fault. If the PR / APR fail to do so, the two (2) year period of Ineligibility applies.

- f) In order to rebut the presumption of fault, the PR / APR must prove, on the balance of probability:
- How the prohibited substances entered the horse's system; and
  - That he bears No Fault or Negligence for that occurrence, i.e. that he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had administered to the horse (or the horse's system otherwise contained) a Banned Substance (in which case, the presumptive two-year period of Ineligibility is eliminated completely pursuant to Article 10.4 of the EAD Rules); or
  - That he bears No Significant Fault or Negligence for that occurrence (in which case, the presumptive two-year period of ineligibility may be reduced by up to 50%, depending on his degree of fault, pursuant to Article 10.5 of the EAD Rules).
- g) The EAD Rules stipulate, and the jurisprudence of the FEI Tribunal and CAS is very clear: it is a strict threshold requirement of any plea of No (or No Significant) Fault or Negligence that the PR / APR proves how the substance entered into the Horse's system. Indeed, this requirement had to be strictly applied because without such proof it would be impossible to assess the PR's / APR's degree of Fault or Negligence (or No Significant Fault or Negligence) for the presence of the Banned Substances in the Horse. The FEI submitted in this context that the PR / APR must provide clear and convincing evidence that proves how the prohibited substances have entered the Horse's system.
- h) In this case, the PR did not submit any position, despite several reminders from the FEI.
- i) With respect to the APR, he did provide a statement where he alleges that the positive result in the Horse's sample could have resulted from a human-horse contamination. However, he did not submit any evidence supporting his allegation, such as name and testimony of the groom, any document evidencing the groom's alleged medical condition, name (and medical certificate supporting the medical condition) of that other person which could have contaminated the Horse, etc. No document was provided to actually prove that it was indeed a human-horse contamination instead of voluntary doping.
- j) If we were to accept such concise, non-substantiated and non-corroborated by

any evidence, statement as a proof of human-horse contamination, then the whole anti-doping system, and efforts to eradicate doping in sport, would be undermined.

- k) In conclusion, the FEI considers that both the PR and the APR failed to establish how the Prohibited Substance entered the Horse's system. Consequently, the "threshold requirement" has not been met *in casu*.
- l) Since the PR and the APR have not established how the Prohibited Substance entered the body of the Horse, there could be no reduction of the standard sanction for Banned Substances, namely two (2) years ineligibility period of the PR and the APR.
- m) According to the FEI, Banned Substances are never to be found in a competition horse, they are substances with no legitimate use and have a high potential for abuse. It is the PR's and the APR's personal duty to ensure that no Banned Substance is present in the Horse's body. For No Fault or Negligence to apply, the PR and the APR have to establish that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had administered to the Horse, or the Horse's system otherwise contained, a Banned Substance.
- n) In view of the above, the FEI is of the opinion that the period of ineligibility imposed on the PR and the APR should be two years.
- o) With respect to the disqualification of results, the FEI submits that art. 9 of the EAD Rules, in conjunction with Art. 10.1.2 EAD Rules, should apply, i.e. that all individual results obtained in connection with an Event, should be forfeited.
- p) In relation to the fine to be imposed, the FEI reminds that Article 10.2. of the EAD Rules provides that, for a violation of Article 2.1 EAD Rules, a fine of up to CHF 15 000 and appropriate legal costs shall also be imposed. The FEI submits that a fine of CHF 7 500 should be imposed on both the PR and the APR.
- q) With respect to the costs of the proceedings, the FEI submits that the PR and the APR should be ordered to pay appropriate legal costs, which would be in this case CHF 2 000 for each the PR and the APR.
- r) The FEI respectfully requests that the FEI Tribunal issue a decision:
  - (i) upholding the charge that the PR and the APR violated Article 2.1 of the EAD Rules;
  - (ii) disqualifying the result of the PR and Horse combination obtained in



the Competition and the Event, and the consequent forfeiture of all medals, points, prize money, etc. won, pursuant to Article 9 and 10.1.2 of the EAD Rules;

- (iii) imposing a period of Ineligibility of two (2) years on the PR and on the APR, crediting the Provisional Suspension already served (i.e. since the date upon which the Provisional Suspension was imposed, on 26 August 2019);
- (iv) fining the PR and the APR a fine of 7 500 CHF each; and
- (v) ordering the PR and the APR to pay the legal costs of 2 000 CHF each that the FEI has incurred in these proceedings.

#### IV. The Decision

##### 1. Jurisdiction

25. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 161 of the GRs, the EADRs and Article 18 of the IRs.

##### 2. The Person(s) Responsible

26. The PR is the Person Responsible for the Horse, in accordance with Article 118.3 of the GRs, as he was the Horse's rider at the Event. The Tribunal wishes to clarify that Support Personnel, such as the Trainer, might be regarded as additional Person Responsible, but the PR remains the main Person Responsible.

27. The Trainer is the Additional Person Responsible for the Horse and must be considered as an Additional Person Responsible under Article 118.3 of the GRs, pursuant to the constant FEI Tribunal's jurisprudence.

##### 3. Considering

28. As set forth in Article 2.1 of the EAD Rules, sufficient proof of an EAD Rule violation is established by the presence of a Banned Substance in the Horse's A-sample. The Tribunal is satisfied that the laboratory reports relating to the A-sample reflect that the analytical tests were performed in an acceptable manner and that the findings of the Laboratory are accurate. The Tribunal is satisfied that the test results evidence the presence of Atenolol in the sample taken from the Horse at the Event. Neither the PR nor the APR challenge the accuracy of the test results and the positive finding. Atenolol is a Banned Substance under the FEI List and the presence of this substance in a Horse's body is prohibited at all times under Article 2.1 of the EAD Rules.

29. As a result, the FEI has thus established an Adverse Analytical Finding, and has thereby sufficiently proven the objective elements of an offence in accordance with Article 3 of the EAD Rules.
30. Pursuant to Article 10.2.1 of the EAD Rules the period of Ineligibility for an Article 2.1 violation, *i.e.*, the Presence of a Banned Substance in a Horse's sample, as in the case at hand, shall be two (2) years, subject to a potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6 of the EAD Rules.
31. In cases brought under the EADRs, a strict liability principle applies as described in Article 2.1.1 of the EAD Rules. Once an EAD Rule violation has been established by the FEI, a PR / APR has the burden of proving that he bears "*No Fault or Negligence*" for the rule violation as set forth in Article 10.4 of the EAD Rules, or "*No Significant Fault or Negligence*," as set forth in Article 10.5 of the EAD Rules.
32. In order for Articles 10.4 and 10.5 of the EAD Rules to be applicable, the PR / APR must establish as a threshold requirement how the Prohibited Substance entered the Horse's system. Further, the PR and the APR do not claim the application of Article 10.6 in this case.
33. In accordance with Articles 2.1.1 and 2.2.1 of the EAD Rules, the Tribunal accepts that it is the PR's and the APR's personal duty to ensure that no Banned Substance is present in the Horse's body at any time. Under the EAD Rules the PR and the APR are held strictly liable for the condition of the horse. CAS (CAS 2015/A/4190 - Mohammed Shafi Al Rumaithi v. FEI) has confirmed the FEI's policy in making the rider the Person Responsible. The Tribunal agrees with CAS and the FEI's policy. The Tribunal therefore also holds that "*making the rider the responsible in this way is necessary to protect the welfare of the horse, and to ensure fair play.*" Similarly, the Trainer has been considered an Additional Person Responsible, in particular in Endurance where his role and decision-making power are of paramount importance.
34. Therefore, the PR and the APR – in order to potentially claim any reduction of the two (2) years period of Ineligibility – had to establish the source of the Banned Substances.
35. The Tribunal is not convinced, that the PR and the APR established the source of the Prohibited Substance, on the balance of probabilities. The PR did not submit any position, which in itself does not need any further explanations. As to the APR, the Tribunal rules that he failed to submit conclusive information and evidence, to prove that it was indeed through the medicines of his groom (or a third party) that the Horse's system was contaminated with Atenolol. The APR's explanations are weak, to say the least, and are not substantiated. Accepting a sole letter – without any supporting

evidence, at all – as a fact is therefore not something admissible in the Tribunal's view. Rather, it was the APR (and the PR)'s burden of proving how the Prohibited Substance entered the Horse's system. Both failed to prove how the Prohibited Substance entered the Horse's body.

36. Hence, the PR and the APR have not established - on a balance of probability, as required under Article 3.1 of the EAD Rules – how the Prohibited Substance entered the Horse's system.
37. In the absence of establishing on the balance of the probability how the Prohibited Substance entered the Horse's system, the Tribunal cannot evaluate the degree of fault of the PR and the APR for the rule violation.
38. Therefore, the Tribunal finds that no reduction of the otherwise applicable period of Ineligibility, i.e., two (2) years pursuant to Article 10.2 of the EAD Rules, is possible.
39. The Tribunal takes note that the PR and the APR have been provisionally suspended since 26 August 2019, and the Tribunal understands that the PR and the APR did not compete or trained during the period of the Provisional Suspension; at least the Tribunal has not been provided with information otherwise.
40. All the evidence submitted by the Parties has been taken into account, but the above sets out that which is essential to the Tribunal's decision.

#### **4. Disqualification**

41. Since the EAD Rules have been violated, and for reasons of ensuring a level playing field, the Tribunal disqualifies the Horse and the PR combination from the Competition and the entire Event, and all medals, points and prize money won must be forfeited, in accordance with Articles 9 and 10.1.2 of the EAD Rules. As indicated by the FEI in their relevant submission, disqualification does not need to concern the APR since it already applies (respectively, has been requested), in the procedure concerning the PR.

#### **5. Fine & legal costs**

42. According to art. 10.2 of the EAD Rules, whenever a Period of Ineligibility is imposed for a breach of Articles 2.1, 2.2 or 2.6 of the EAD Rules, a fine of up to CHF 15 000 should also be imposed, and appropriate legal costs.
43. The FEI is of the opinion that, *in casu*, an appropriate fine for this case would be CHF 7'500.-. The present matter can be considered as "standard", in the sense that there

has been no reduction or elimination of the otherwise applicable Ineligibility Period. Therefore, the Tribunal deems that a CHF 7 500.- fine (pro person) is acceptable in the present matter, is appropriate to the seriousness of the Rule Violation committed by the PR and the APR.

44. With respect to the legal costs, the Tribunal notes the delay in the submission of the present case. The offence was detected in June 2019, notified in August 2019 and the APR responded in December 2019. The case was passed for adjudication to the FEI Tribunal in late March 2021. Due to the unjustified delay, the Tribunal holds that there will be no costs order.

#### V. Operative part of the Decision

- 1) As a result of the foregoing, the period of Ineligibility imposed on the PR and on the APR for the present rule violation shall be two (2) years.
- 2) The Tribunal imposes the following sanctions on the PR and on the APR in accordance with Article 169 of the GRs and Article 10 of the EAD Rules:
  - a) The PR shall be suspended for a period of **two (2) years**. The period of Provisional Suspension, effective from 26 August 2019, shall be credited against the period of Ineligibility imposed in this decision. Therefore, the PR will be ineligible **until 25 August 2021**.
  - b) The APR shall be suspended for a period of **two (2) years**. The period of Provisional Suspension, effective from 26 August 2019, shall be credited against the period of Ineligibility imposed in this decision. Therefore, the APR will be ineligible **until 25 August 2021**.
  - c) The PR is fined **seven thousands five hundred Swiss Francs (CHF 7 500)**.
  - d) The APR is fined **seven thousands five hundred Swiss Francs (CHF 7 500)**.
  - e) The PR shall not bear any part of the costs of these proceedings.
  - f) The APR shall not bear any part of the costs of these proceedings.
- 3) No Horse, Person Responsible and/or member of the Support Personnel who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity that is authorised or organised by the FEI or any National Federation or be present at an Event (other than as a spectator) that is

authorized or organized by the FEI or any National Federation, or participate in any capacity in Competitions authorized or organized by any international or national-level Event organisation (Article 10.11.1 of the EAD Rules).

- 4) Where a Person Responsible who has been declared Ineligible violates against participation or attendance during Ineligibility, the results of any such participation shall be Disqualified and a new period of Ineligibility equal in length up to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. In addition, further sanctions may be imposed if appropriate (Article 10.11.3 of the EAD Rules).
- 5) According to Article 168 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.
- 6) In accordance with Article 12 of the EAD Rules the Parties may appeal against this decision by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.

VI. DECISION TO BE FORWARDED TO:

- a. The Parties: Yes
- b. The NF of the PR and the APR: Yes
- c. Any other: No

FOR THE TRIBUNAL



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Mr. Jose A. Rodriguez Alvarez, one member panel