

DECISION of the FEI TRIBUNAL

dated 7 December 2021

in the matter of

Mr Raoul RONSMANS (C21-0062)

(FEI Case number: FEI 2021/BS10 SPOOTNICK DAVRIL – Mr Raoul RONSMANS)

FEI Tribunal Hearing Panel:

Mr Cesar Torrente (COL), one-member panel

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FEI Tribunal reference: C21-0062

Horse / Passport: SPOOTNICK DAVRIL/104YN31/BEL

Person Responsible / ID / NF: Raoul RONSMANS/10014170/BEL

Event: ID/Date: 2021\_CI\_1229\_E\_S\_03, CEI2\* 70 + (2) - Monpazier (FRA), 27-29.08.2021

Prohibited Substance(s): O-desmethylvenlafaxine

Bar Code No.: 5606054

## I. SUMMARY OF LEGAL AUTHORITY

### A. 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, updates effective 1 January 2021, 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's Equine Anti-Doping and Controlled Medication Rules, 2<sup>nd</sup> edition, changes effective 1 January 2021 ("**EAD Rules**").

FEI's Equine Anti-Doping and Controlled Medication Regulations, changes effective 1 January 2021 ("**2021 EAD Rules**").

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

### B. Person Responsible: Mr Raoul RONSMANS.

### 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.”

## II. Factual background

1. Mr Raoul RONSMANS (FEI ID 10014170), the Person Responsible (“**the PR**”) and rider for Belgium, competed with the Horse SPOOTNICK DAVRIL (“**the Horse**”) at the CEI2\* in Monpazier (FRA) between 27 and 29 August 2021 (“**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 O-desmethylvenlafaxine, which is a Banned Substance under the FEI’s Equine Prohibited Substances List. O-desmethylvenlafaxine is an anti-depressant used in the treatment of depression and anxiety development. O-desmethylvenlafaxine is furthermore a metabolite of venlafaxine.
4. The positive finding of O-desmethylvenlafaxine, as a metabolite of Venlafaxine, in the Horse’ sample gave rise to an Anti-Doping Rule Violation.
5. On 30 September 2021, the FEI Legal Department officially notified the PR and the Belgian Equestrian Federation (“**BEL-NF**”), 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 FEI

Equine Anti-Doping Rules (the “EAD Rules”), based on the Laboratory’s Adverse Analytical Finding of O-desmethylvenlafaxine in the Horse’s Sample collected at the Event and the potential consequences (the “Notification Letter”).

6. As a result of said positive finding, the PR was provisionally suspended, as of 30 September 2021.
7. On 18 November 2021, the FEI requested to the Tribunal, in accordance with Art. 7.4.4 (i) of the EAD Rules, the immediate lifting of the Provisional Suspension imposed on the PR, since the FEI was satisfied, based on the evidence provided, that the PR bore *No Fault or Negligence* for the Rule Violation, and that the otherwise applicable Period of Ineligibility shall be eliminated.
8. By way of a Preliminary Decision dated 23 November 2021, the Tribunal lifted the Provisional Suspension imposed on the PR with immediate effect.

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

9. By email dated 24 November 2021, the FEI submitted its request to the Tribunal for the appointment of a hearing panel for the adjudication and approval of a Settlement Agreement.
10. On 3 December 2021, the 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.
11. On 3 December 2021, the FEI informed the Tribunal that it did not have any objections to the constitution of the hearing panel. The PR did not raise any objection within the deadline granted.
12. Neither party requested an oral hearing.

### IV. The Parties’ Submissions

#### A. The Submissions of the PR:

13. The PR submitted his position on 23 October 2021, position which was however only received by the FEI on 6 November 2021.
14. The PR indicated the following:

*"The detection of VENLAFAXINE in the urine of my horse is probably coming due to the fact that my groom is taking an anti-depression medication since various years that holds this substance. The groom, Mr. Robert ANTOINE, has declared in the attached letter that he participated in the competition in Monpazier and that he takes this medication and that he has urinated regularly during the competition. He joined to his letter a document from his pharmacist dated 16.08.2021 that he takes this medication. So, it is perfectly possible that my horse has eaten some straw or hay where the prohibited substance was detected.*

*I do not contest the result of the test since it can be due to the medication of my groom. I was not aware of this medication of course. Therefore, I do not wish another B sample. However I have some questions concerning the conformity of the test for following elements: the limit of the prohibited substance has not been indicated, neither the limit of detection or quantification and finally the authentic witness has not been quantified and compared with the limit. But I don't know if this is a problem or not, I leave this for your consideration.*

*A last element that is an indication of my good faith is the fact that I am 71, and that I finished that day 4 hours after the horse that won the competition and 2 hours after the before last competitor. I was not participating to be part of the best competitors, but to have a nice day of horse riding. Why would I have used prohibited substances? It makes no sense."*

15. In support of his position, the PR provided a written and signed statement from his Groom, attesting having performed as the PR's groom at the Event. The Groom further indicated having been under medical treatment for many years, the medicine being Venlafaxine. He needs to take it every day. During the two days that lasted the Event, the groom urinated various times in the stables.
16. The PR also submitted a medical prescription in the name of his groom, dated 16 August 2021, and evidencing the prescription, for, among others, Venlafaxine.

#### **B. The Submission of the FEI:**

17. On 25 November 2021, the FEI provided the Tribunal with the Settlement Agreement reached between the Parties, which contains accordingly the FEI's position. The FEI's position is summarised below.
18. Based on the PR's accounts of the facts, the FEI decided to consult its external scientific expert, which gave the following explanation:

*"Studies in humans (see enclosed paper) indicate that approximately 50% of the dose is ultimately excreted in the urine as o-desmethylvenlafaxine.*

*So this is a high dose of venlafaxine – so for more severe depression. Given this high dose and low levels of the O-desmethylvenlafaxine found in the horse's urine this would be plausible if the horse ingested urine from the groom peeing in the stable.*

*Therefore, it is plausible that a urine concentration of 1-1,6ng/mL could result based upon a person on Venlafaxine urinating in a stable.*

*There is very limited data in human for urine concentration data as the focus is on plasma but my estimates suggest that the rider's explanation is plausible.."*

19. In the expert's opinion, the submitted explanation is scientifically possible, especially given the high dosage of the Venlafaxine taken by the Groom and the low concentration found in the Horse.
20. Therefore, the explanation provided by the PR is scientifically plausible and the PR has established, on a balance of probabilities, how *O-desmethylvenlafaxine* entered the Horse's system, i.e. through ingestion of bedding that was contaminated with the Groom's urine with the Groom undergoing a treatment with the medication Venlafaxine.
21. Furthermore, the FEI had in the past other Anti-Doping Rule Violations resulting from the horse's bedding being contaminated with human medication via human urination, which led to findings of No Fault or Negligence for the Rule Violation. In those cases, it was established that the PR could not reasonable have known that the identified Person was on medication that could lead to the presence of the Prohibited Substance in the Horse, and that the PR could not reasonably have known that the identified Person would actually urinate in the Horse's stables.
22. In view of the above, the FEI is of the opinion that the PR has established that he bears No Fault or Negligence for the Rule Violation, in accordance with Art. 10.4 of the EAD Rules, and the otherwise applicable period of Ineligibility shall be eliminated.
23. The results achieved by the PR and the Horse at the Event must however be disqualified, pursuant to Art. 9.1 and Art. 10.1.2 of the EAD Rules, with all resulting consequences, including forfeiture of any related medals, points and prizes.

## V. 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 Horse SPOOTNICK DAVRIL (the "Horse") at the CEI2\* 20 + (2) in Monpazier (FRA) on 27 August 2021, (the "Event"), the PR and the FEI agree in accordance with 7.6.1 AD 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 the O-desmethylvenlafaxine entered the Horse's system;
- (c) The PR bears no fault or negligence for the Rule Violation and therefore the PR shall not serve any period of ineligibility and the otherwise applicable period of Ineligibility (i.e. two years) shall be eliminated;
- (d) 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;
- (e) 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;
- (f) The PR shall not incur any fines;
- (g) Each party will bear its own legal and other costs incurred in connection with these proceedings;

- 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\*\*\*

## VI. Jurisdiction

25. The 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. The PR is a member of the Belgian Equestrian Federation, 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, subject to approval by the Tribunal. As a result, the Tribunal has the requisite jurisdiction to approve and issue this Decision.

## VII. 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 Fault or Negligence for his first anti-doping rule violation.
27. Furthermore, the Tribunal also noted that the FEI is satisfied that the explanations – and supporting evidence – provided by the PR prove that the PR bears No Fault or Negligence for the Rule Violation. The Tribunal noted in this respect that the PR submitted a statement from his groom, as well as a medicine prescription, explaining – swiftly after being notified of the Rule Violation – how the Prohibited Substance entered the Horse's system. The Tribunal also noted that the FEI considered the various elements brought by the PR, and analysed the scientific explanations brought by the PR, comparing it with the scientific analysis provided by their external scientific expert.



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 EAD 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 C21-0062 RONSMANS [2021/BS10 SPOOTNICK DAVRIL].

#### VIII. Decision

1. The Tribunal rules that the Agreement reached between the FEI and the PR, Mr Raoul RONSMANS concerning the case C21-0062 RONSMANS [2021/BS10 SPOOTNICK DAVRIL] is hereby ratified by the Tribunal with the consent of the Parties, and its terms set out in Paragraph V 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 published in accordance with Article 13.3 of the EADCM Rules.

IX. DECISION TO BE FORWARDED TO:

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

FOR THE TRIBUNAL

A handwritten signature in blue ink, appearing to read "Torrente", is centered on the page. The signature is stylized with a large loop at the top and a horizontal line across the middle.

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Mr Cesar Torrente, One-Member Panel