

**DECISION of the FEI TRIBUNAL**

**dated 22 March 2022**

**Ms Arianna Bonanno  
(Additional Person Responsible)**

**(FEI Case number: 2021/FT11)  
LIPPIA DULCIS IC**

**FEI Tribunal Hearing Panel:**

**Ms. Diane Pitts (USA) one-member panel**

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**FEI Tribunal Reference:** C22-0002

**Horse/Passport:** LIPPIA DULCIS IC/106WA19/ITA

**Person Responsible/ID/NF:** Marco ANGELI/10087092/ITA

**Additional Person Responsible/ID/NF:** Arianna BONANNO/10155778/ITA

**Event/ID:** CEI2\* 120 - Arezzo (ITA), 23-25.04.2021, 2021\_CI\_0886\_E\_S\_08

**Date of Event:** 23-25.04.2021

**Date of Sample Collection:** 25.04.2021

**Prohibited Substances:** Hydrocortisone Hemisuccinate

**Bar Code Nos.:** 5602593

## **I. SUMMARY OF LEGAL AUTHORITY**

- 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, 24 th edition, 1 January 2020, updates effective 1 January 2021, Arts. 118, 143.1, 161, 168 and 169 ("**GRs**").

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

FEI's Equine Anti-Doping and Controlled Medication Regulations, 3 rd Edition, effective 1 January 2021 ("**EADCMRs**").

FEI's Endurance Rules, Updated 11th Edition, effective 1 January 2021 ("**FEI Endurance Rules**").

- B. APR:** Ms. Arianna Bonanno

### **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. (...) In Endurance, the Trainer shall be the additional Person Responsible."

**FEI Endurance Rules, Art. 800.4.1:** "the Trainer is the person who is responsible for preparing the Horse both physically and mentally for competition (which includes determining the appropriate exercise programme, nutrition, and veterinary care for the Horse)".

**FEI Endurance Rules, Art. 828.3.1:** "Any change in the Trainer of the Horse must be notified to the FEI without delay. If the registered Trainer

of a Horse changes, the Horse may not participate in any Competition for a period of 30 days, starting from the date of notification of the change to the FEI”.

**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 Page 3 of 13 without a valid Veterinary Form. Persons Responsible are responsible for any Controlled Medication 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 - 2.5 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.”

**ECM Rules Art. 10.2:** “The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.5 shall be six months, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6. A Fine of up to CHF 15,000 and appropriate legal costs shall also be imposed for any Controlled Medication violation.”

## **II. FACTUAL BACKGROUND**

- 1.** Ms. Arianna Bonanno (FEI ID 10155778) is an FEI registered Athlete and was the registered Trainer, who is considered the Additional Person Responsible (**the APR**) of the horse **LIPPIA DULCIS IC (the Horse)**.
- 2.** The Fédération Equestre Internationale (**the FEI and together with 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, Para-Equestrian).
- 3.** The APR was the registered trainer for the Horse when it participated at the CEI2\* 120 - Arezzo (ITA), 23-25.04.2021, (**the Event**).
- 4.** Blood and urine samples were collected from the Horse on 25 April 2021 and sent to the FEI approved laboratory, (**the Laboratory**), the LGC, Newmarket Road, Fordham, Cambridgeshire, UK, for analysis. The Horse’s samples were divided into “A Sample” and a “B Sample”, with reference number 5602593.

5. The laboratory analysed the Horse's A Samples of both blood and urine and reported an Adverse Analytical Finding **(AAF)** for Hydrocortisone hemisuccinate in the urine Sample<sup>1</sup>, which is a Prohibited Substance (a Controlled Medication Substance) under the EADCMRs which initiated these proceedings.

Hydrocortisone hemisuccinate is a Corticosteroid used in the treatment of severe allergic reactions, endocrine and skin disorders. Hydrocortisone hemisuccinate is the hemisuccinate salt form of Hydrocortisone and is classified as a Controlled Medication Substance under the 2021 FEI Equine Prohibited Substances List.

6. The FEI confirmed that as no valid Veterinary Form existed for this Controlled Medication Substance, the positive finding for Hydrocortisone hemisuccinate gave rise to a Controlled Medication Rule Violation under the EADCMRs.
7. The FEI also informed the Tribunal that the proceedings against the PR were processed under the "Administrative Procedure", in accordance with Article 8.3 of the Equine Controlled Medication Rules **(the ECM Rules)**.
8. The FEI further noted that the ECM Rules apply to *"each Person Responsible and their Support Personnel by virtue of their membership in, accreditation by, or participation in the FEI or National Federation, or in their activities, Competitions or Events"*.<sup>2</sup> Most relevantly for present purposes, Article 2.1 of the ECMRs prohibits *"The presence of a Controlled Medication Substance or its Metabolites or Markers in a Horse's Sample."* Furthermore, it states that *"Persons Responsible are responsible for any Controlled Medication Substance found to be present in their Horse's samples..."*.
9. Furthermore, at the introduction to the EADCMRs, it states that that *'The Person Responsible remains ultimately responsible, and thereby ultimately liable, for EADCM violations. Where appropriate, and only when the specific factual circumstances so warrant, Support Personnel will be held additionally responsible. Notwithstanding the foregoing, in the discipline of Endurance, the registered Trainer shall be considered as an additional Person Responsible and held additionally responsible for any violation(s) under Articles 2.1 of the EAD Rules and the ECM Rules'*<sup>3</sup>.

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<sup>1</sup> FEI Response dated 24 January 2022- Exhibits 8 and 9, LGC Confirmatory analysis and Data Pack.

<sup>2</sup> Introduction to the EADCMR at p 2.

<sup>3</sup> EADCMRs 3rd Edition effective 1 January 2021 paragraph 3 (Introduction- preface).

10. In addition, the FEI noted that according to the GRs<sup>4</sup> Article 118.3, *'the Person Responsible (PR) 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 Endurance, the Trainer shall be the additional Person Responsible.'*
11. Moreover, the FEI submitted that in Endurance the "Trainer" is *'the person who is responsible for preparing the Horse both physically and mentally for competition (which includes determining the appropriate exercise programme, nutrition, and veterinary care for the Horse)'* (Article 800.4.1 of the Endurance Rules, Updated 11<sup>th</sup> Edition, effective 1 January 2021).
12. Considering the above specificities of the Endurance discipline wherein Trainers are in charge of making the relevant decisions about their horses, and as further specified in the "Introduction to the EADCMRs" and Article 118.3 of the GRs, a registered Trainer in the Endurance discipline shall be regarded as an APR and the FEI submitted that such was the case in these proceedings.

### **Background of the Endurance Discipline and Registration of Trainers**

13. The FEI described in their Response that Endurance Riding often revolved around large stables with many horses and employed professional trainers. Accordingly, the FEI explained that the day-to-day care of the horses, therefore, was the responsibility of the trainers, as they are the ones making the following relevant and concrete decisions about their horses:
  - which feed and supplements (if any) are being fed to the horse;
  - shoeing type and cycle;
  - choice of the veterinarian;
  - veterinarian treatments including any administration of medications;
  - training regime and exercise program;

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<sup>4</sup> FEI General Regulations effective as of 1 January 2021.

- competition schedule.
- 14.** The FEI submitted that the above-noted responsibilities were crucial decisions with important implications from an anti-doping perspective, as they also dictated as to whether a horse would be involved in a violation of the EADCMRs.
- 15.** The FEI explained that as a prosecutor, they rely on the FEI database system through which Athletes, Trainers, Officials, Owners etc. are registered with the FEI. The registration system allows the FEI to hold registered people accountable in the case of violations of the FEI Rules and Regulations. Moreover, the FEI noted that by registering in the FEI database as a Trainer, as well as by accepting an accreditation to an FEI Event, the registered person acknowledged and agreed to be bound by the FEI Rules and Regulation (Article 2.8 of the FEI Statutes<sup>5</sup>).
- 16.** In particular, the FEI submitted that the “registered Trainer” of the Horse accepted:
  - a) to be *'the person who is responsible for preparing the Horse both physically and mentally for competition (which includes determining the appropriate exercise programme, nutrition, and veterinary care for the Horse)'*, Article 800.4.1 of the Endurance Rules;
  - b) that in order *'To participate in Competitions, all Athletes, Horses, and Trainers must be registered with the FEI and the applicable registration fees must have been paid to the FEI, in accordance with the FEI General Regulations.'* Article 828.1 of the Endurance Rules;
  - c) that *'When Endurance Horses are registered with the FEI, the name of the Trainer for that Horse must also be registered and a registration fee paid (except that if the registered Trainer is also a registered Athlete, no additional Trainer registration fee will be charged)'* Article 828.2 of the Endurance Rules;

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<sup>5</sup> Article 2.8 of the FEI Statutes provides: *'It is a condition of membership that National Federations comply with, and are bound by the FEI Rules and Regulations including but not limited to the Statutes, General Regulations, Sport Rules (which include the FEI Human and Equine Anti-Doping Rules) and any Decision issued by the authorised bodies of the FEI in relation to the conduct of international equestrian Events, all of which shall also bind Organising Committees, Officials, Horse Owners, Persons Responsible, Athletes, team officials and other individuals and bodies involved in FEI Events. In addition, by virtue of accepting an accreditation to an FEI Event, such person agrees to be bound by the FEI Rules and Regulations. National Federations are granted an exclusive license to use, modify, print and distribute as appropriate the documents referred to in this Article, which are FEI property, for the purpose of regulating Equestrian Sport within their national territory.'*

- d) that *'Any change in the Trainer of the Horse must be notified to the FEI without delay. If the registered Trainer of a Horse changes, the Horse may not participate in any Competition for a period of 30 days, starting from the date of notification of the change to the FEI.'* Article 828.3 of the Endurance Rules;
- e) that *'It is the personal and non-delegable responsibility of each person participating in any capacity in an Event, including each Athlete and each Trainer, to familiarise himself with all of the requirements of the FEI Rules and Regulations, including any amendments that may be made from time to time. Each Athlete and each Trainer must also ensure that each of his Support Personnel (including Crew Members) and any other person from whom he obtains advice or support familiarises himself with such requirements. Ignorance of those requirements will not be a defence in the event of any breach.'* Article 800.5 of the Endurance Rules;
- f) that he/she *'shall be considered as additional Person Responsible and held additionally responsible for any violation(s) under Articles 2.1 of the EAD Rules and the ECM Rules.'* Introduction to the EADCMR.

**17.** Therefore, the FEI confirmed that once a person is registered as a Trainer in the FEI database, this person had accepted the responsibilities that come with such a registration, i.e., to be considered as the APR pursuant to the GRs and EADCMRs.

The latter principle was also confirmed in the Decision of the FEI Tribunal **(the Tribunal)** dated 25 June 2020 in the case 2019/FT07 and 2019/CM08 CASTLEBAR CADABRA and 2019/CM06 VAGABON DE POLSKI where the Tribunal stated the following (paragraph 9.6):

*'In casu, therefore, if the Trainer accepted to be registered for 154 horses in 2019, he is presumed to have accepted pursuant to Article 800.3-4 of the ERs to be "the person who is in charge of the preparation of the Horse both physically and mentally for Competition.(...)", and therefore he is presumed to have made relevant decisions about these horses, including the Horses in question. The Tribunal would expect that if a trainer does not carry out all tasks himself, he puts procedures in place to be informed and oversee all decisions regarding the horses he is the registered trainer for. Ultimately however, when registering as trainer for a horse, or a number of horses, this person accepts the responsibilities which come with such a registration, i.e., to be considered as additional Person Responsible pursuant to the GRs and EADCMRs. The Tribunal finds that the provision in the ERs, defining the*

*role of the Trainer, has been precisely put in place in order to avoid the arguments made by the Trainer, namely that he was not responsible and did not take any relevant decisions for the Horses in question. In the view of the Tribunal this provision has been put in place because the FEI expects trainers to take responsibility for all horses they train, regardless of the number of horses, as well as the decisions which might be made by others, such as veterinarians and grooms. And the reason for that is to safeguard the welfare of the horses, one of the statutory aims of the FEI.<sup>6</sup>*

### **III. INITIAL PROCEEDINGS**

- 18.** The FEI referred to Article 2.1 of the ECM Rules which states that '*[t]he presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Horse's Sample*' is a violation of the ECM Rules. In addition, Article 2.1.1 of the ECMRs states that '*[i]t is each Person Responsible's personal duty to ensure that no Controlled Medication Substance is present in the Horse's body during an Event without a valid Veterinary Form. Persons Responsible are responsible for any Controlled Medication Substance found to be present in their Horse's Samples*'.
- 19.** On 28 May 2021<sup>7</sup>, the FEI Legal Department officially notified the APR and the Secretary General of the Italian National Federation (**the ITA-NF**) of the alleged Equine Controlled Medication Rule Violation (**the ECM Rule Violation**) under the EADCMRs.
- 20.** Following the receipt of the APR's initial submissions, the FEI issued a Notice of Charge dated 11 October 2021<sup>8</sup> which confirmed the ECM Rule Violation, and the APR was charged with a violation of Article 2.1 of the ECM Rules based on the Laboratory's A Sample collected at the Event.
- 21.** In the Notice of Charge issued by the FEI the APR was provided an opportunity to admit the ECM Rule Violation, accept the proposed consequences and benefit from the reduction in the otherwise applicable period of Ineligibility. The APR did not choose this option and instead decided to proceed with the case before the Tribunal.

#### ***Provisional Suspension***

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<sup>6</sup> FEI Response dated 24 January 2022: Exhibit 13, case 2019/FT07 and 2019/CM08 CASTLEBAR CADABRA and 2019/CM06 VAGABON DE POLSKI.

<sup>7</sup> FEI Response dated 24 January 2022: Exhibit 11, Notification Letter dated 28 May 2021.

<sup>8</sup> FEI Response dated 24 January 2022: Exhibit 12, Notice of Charge dated 11 October 2021.



22. The FEI decided not to provisionally suspend the APR since only one Controlled Medication Substance was detected in the Horse's Sample in accordance with Article 7.4.1 of the ECM Rules.
23. Nevertheless, the FEI reminded the APR about her right to request a Voluntary Provisional Suspension in accordance with the Article 7.4.9 of the ECM Rules. The APR did not exercise this right.

### ***B Sample Analysis***

24. In the Notification Letter of 28 May 2021, the APR was informed that she had the right to request the Horse's B Sample to be analysed. The FEI confirmed that neither the APR nor the PR requested the B Sample analysis and by failing such request the B Sample analysis is deemed waived in accordance with the Article 7.1.4(c) of the ECM Rules.

### ***Hearing Request***

25. The APR did not request a hearing in respect of these proceedings.

## **IV. FURTHER PROCEEDINGS**

26. By email dated 24 January 2022, the FEI submitted its request to the Tribunal for the appointment of a hearing panel.
27. On 3 February 2022, the Tribunal informed the Parties of the appointment of a one-person hearing panel to decide this case. The Parties were asked to provide any objections to constitution of the hearing panel by 8 February 2022. The APR was also granted the opportunity to respond to the FEI's submissions by 23 February 2022. The APR was also informed that the Tribunal will generally decide such cases based on written submissions but that the Parties had the right to request an oral hearing.
28. On 7 February 2022, the FEI informed the Tribunal that it did not have any objections to the constitution of the hearing panel. The APR did not inform the Tribunal as to whether she had any objections to the composition of the hearing panel. Therefore, by not responding within the deadline, it was deemed she agreed to the constitution of the hearing panel.
29. On 17 February 2022, the Legal Representative for the APR filed a Brief with various exhibits and evidence defending the APR's position. These documents were forwarded to the Appointed Panel Member for consideration.

## **V. SUBMISSIONS OF THE APR**

**30.** The FEI received several submissions<sup>9</sup> on behalf of the APR and summarised these submissions as follows:

- The APR was not the Trainer of the Horse nor was she the Trainer of the Horse at the time of the Event;
- The Horse was stabled at the Ambrosia Farm A.S.D. Equestrian Club until 1 November 2020, the date on which it was transferred by the PR to San Marco Ranch Srl.;
- The PR confirmed that: the Horse lived in the PR's stable, the APR was not the Trainer of the Horse at the time of the Event nor was the APR related to any actions that might have happened to the Horse. As a consequence, the PR stated that he was solely responsible in this case and should be held liable for any rule violations;
- The APR did not assist the PR at the Event in any way;
- The APR was not aware of anything in relation to this alleged anti-doping rule violation;
- The APR was not summoned for the doping control test of the Horse, and it was the PR who signed all the papers related to it;
- Therefore, unfortunately due to a mere administrative error (secretary's mistake), the APR was erroneously and unexpectedly featured as the Trainer of the Horse in the FEI database.

**31.** Regarding the issue of how the Prohibited Substance entered the Horse's body in first place, the PR stated that<sup>10</sup>:

- the PR mistakenly applied an ointment (FOILLE INSETTI) on the Horse after it was bitten by insects;
- this ointment was used only for the welfare of the Horse, for allergic problem, and not to enhance performance;
- the PR stopped using this ointment only two days before the competitions;

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<sup>9</sup> FEI Response dated 24 January 2022: Exhibits 14-19, Defence Lawyer's documents.

<sup>10</sup> FEI Response dated 24 January 2022: Exhibit 20, email from PR.

- the PR was unaware that the substance in the ointment could cause doping in his Horse;

**32.** Apart of the simple statement from the PR, the FEI confirmed that it did not receive any supporting documents or evidence in relation to the source of the Prohibited Substance.

## **VI. SUBMISSIONS OF THE FEI**

### **▪ *Considerations regarding the registered Trainer of the Horse being the APR***

**33.** The FEI stressed in their submissions that the applicable rules are very clear and stated that *'the registered Trainer shall be considered as additional Person Responsible and held additionally responsible for any violation(s) under Articles 2.1 of the EAD Rules and the ECM Rules<sup>11</sup>.*

**34.** As already indicated at Paragraph 17 of this Decision, the classification of a registered Trainer as the APR was introduced following the Decision of the Tribunal and confirmation that, due to the specificity of the Endurance discipline, the FEI was correct in holding the registered Trainer accountable for EADCMR Violation in order to safeguard the welfare of the horses, which is one of the main statutory aims of the FEI.

**35.** The FEI noted that this case law also reaffirmed that it was completely irrelevant whether the registered Trainer indeed made the relevant decisions about the Horse which resulted in the ECM Rule Violation. The Tribunal further stated that when registering as Trainer for a horse, or a number of horses, such person accepted the responsibilities which came from such a registration, i.e., to be considered as APR pursuant to the GRs and EADCMRs.

**36.** The FEI further maintained that it was the responsibility of the registered Trainer and the PR to inform the FEI and/or its National Federation of any change in his/her status and activities in accordance with the Article 828.3 of the Endurance Rules: *'Any change in the Trainer of the Horse must be notified to the FEI without delay.'* Only then, the registered Trainer could be released from the responsibilities stemming from his/her registration in the FEI Database.

**37.** In this regard, the FEI stressed that the Article 800.5 of the Endurance Rules clearly provided that it was a *'personal and non-delegable*

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<sup>11</sup> Introduction to the EADCMRs 2021.

responsibility of each person participating in any capacity in an Event, including each Athlete and each Trainer, to familiarise himself with all of the requirements of the FEI Rules and Regulations, including any amendments that may be made from time to time. (...) Ignorance of those requirements will not be a defence in the event of any breach.'

- 38.** Therefore, the FEI submitted that it was also clear that failure in performance of the registered Trainer duties (e.g., notification to the FEI of the change in the Trainer's status/activities) could not be used as a defence for any other breach of the FEI Rules.
- 39.** The FEI stated that it was important to stress that the roles and responsibilities of the registered Trainers in Endurance are available and known to all persons before their registration. Accordingly, it was all the more important to apply those conditions equally to all the registered Trainers in Endurance as only then the FEI could maintain a level playing field.

Additionally, the FEI noted that the possibility for a registered Trainer to claim that he/she was not the Trainer of the Horse at the time of the violation despite his/her registration would totally undermine the FEI's system and fight against the doping and abuse of Controlled Medications in equestrian sport. The FEI considered that such administrative excuses would provide an "easy" option for the registered Trainers to avoid their responsibilities by claiming that another person performed duties of the registered Trainer. This in turn would impact on the welfare of the horses with people making mistakes, deliberately or negligently, knowing that they would never be held responsible for their actions.

Consequently, the FEI confirmed that there must be a strict adherence to the rules in order to provide assurance to the equestrian community that the rules are applicable to all participants equally (and the level playing field is respected) which ensured that the welfare of the horse remained at the heart of the FEI's actions.

- 40.** Furthermore, the FEI submitted that their Rules did not foresee any exception or a discretion which might be exercised by the FEI in determining prosecution of cases against the registered Trainers in Endurance depending on the specific circumstances of a given matter. Quite to the contrary, the use of a word "shall" in both EADCMRs, and GRs made it clear that once an EADCMR Violation occurred, the registered Trainer of the horse was automatically responsible (in addition to the rider).

**41.** In any event, the FEI conducted a further investigation regarding the registration of the APR as the Trainer for this Horse. This investigation revealed that<sup>12</sup>:

- The APR was first registered as the Trainer of the Horse on 4 June 2020 by the Circolo Ippico Tenuta l'Ambrosia A.S.D.;
- The Circolo Ippico Tenuta l'Ambrosia A.S.D. renewed the APR's 2021 registration as the Trainer of the Horse on 15 April 2021 (just eight days before the Event);
- Registrations and renewals of the Trainers in the FEI Database are done by the Italian equestrian clubs through the ITA-NF database which then sends the entered data directly to the FEI database;
- The APR is the Vice President and the Instructor at the Circolo Ippico Tenuta l'Ambrosia A. S. D. since 2018;
- The APR was the registered Trainer of the Horse in the FEI Database at the time of the Event and the positive doping control;
- The APR confirmed that she was a Trainer of the Horse in the past;
- The APR did not inform the FEI or its National Federation before the collection of the positive doping control sample that the Horse was moved from the Circolo Ippico Tenuta l'Ambrosia A.S.D. stables to the San Marco Ranch Srl. on 1 November 2020 and that the APR no longer acted as the Trainer of the Horse;
- Despite being notified of the alleged ECM Rule Violation by the Notification Letter dated 28 May 2021, the APR still did not ensure that her registration as the Trainer of the Horse was removed from the FEI Database. The FEI stated that only due to a reminder from the FEI in the Charge Letter dated 11 October 2021 that the APR contacted its National Federation and proceeded with the appropriate administrative changes.

**42.** Taking into account all of the explanations provided in the paragraphs 33-41 of this Decision, Ms Bonanno was considered the APR in the present case by the FEI.

▪ ***Violation by the APR - Article 2.1 of the ECM Rules***

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<sup>12</sup> FEI Response dated 24 January 2022: Exhibits 2, 3, 11, 12, 14, 15, 18, 21, 22 and 23.

- 43.** The FEI submitted that Article 3.1 of the ECM Rules made it the FEI's burden to establish all of the elements of the ECM Rule Violation charged on the balance of probabilities.
- 44.** The FEI stated that the elements for a violation of Article 2.1 are straightforward; *'It is not necessary that intent, fault, negligence or knowing Use be demonstrated in order to establish an ECM Rule violation under Article 2.1'*. Instead, the FEI noted that it was a *'strict liability'* offence, established simply by proof that a Controlled Medication Substance was present in the Horse's Sample.
- 45.** The FEI confirmed that the results of the analyses of the A Sample taken from the Horse at the Event confirmed the presence of Hydrocortisone hemisuccinate which constituted sufficient proof of the violation of Article 2.1 of the ECM Rules.
- 46.** In any event, the APR did not contest the presence of Hydrocortisone hemisuccinate in the Horse's Sample. Accordingly, the FEI submitted that it had discharged its burden of establishing that the APR violated Article 2.1 of the ECM Rules.

▪ ***Imposition of a period of Ineligibility***

**a)The presumption of fault**

- 47.** In respect of the presumption of fault, the FEI referred to Article 10.2 of the ECM Rules which provided that a Person Responsible (or APR) with no previous doping offences who violated Article 2.1 of the ECM Rules may be sanctioned to a period of Ineligibility of six months, unless he/she were able to rebut the presumption of fault. The FEI explained that in order to do this the rules specified that he/she must establish to the satisfaction of the Tribunal (it being his/her burden of proof, on the balance of probability<sup>13</sup>):
- How the Prohibited Substances (here, Hydrocortisone hemisuccinate) entered into the horse's system; and
  - That he/she bears No Fault or Negligence for that occurrence, i.e., that he/she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he/she had administered to the horse (or the horse's system otherwise contained) a Controlled Medication Substance (in which case, the presumptive six-

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<sup>13</sup> Art. 3.1 ECMR

months period of Ineligibility is eliminated completely pursuant to Article 10.5 of the ECM Rules); or

- That he/she bears No Significant Fault or Negligence for that occurrence (in which case, the presumptive six-month period of ineligibility may be reduced depending on his degree of fault, pursuant to Article 10.6 of the ECM Rules).

**48.** The FEI confirmed that if the APR failed to discharge this burden, the presumptive six-month ban under Article 10.2 of the ECM Rules should be applied.

**b)The 'threshold' requirement: proving how Hydrocortisone Hemisuccinate entered into the Horse's system**

**49.** The FEI noted that the ECM Rules stipulated: that it was a strict threshold requirement of any plea of No (or No Significant) Fault or Negligence that the PR/APR proved how the substance entered into the Horse's system.

**50.** Furthermore, the FEI explained that this requirement must be strictly applied because without such proof it would be impossible to assess the APR's degree of Fault or Negligence (or No Significant Fault or Negligence) for the presence of the Controlled Medication Substances in the Horse.

**51.** The FEI submitted in this context that the APR must provide clear and convincing evidence that proves how Hydrocortisone hemisuccinate entered the Horse's sample.

**52.** The FEI stated that as previously noted in paragraph 30 of this Decision, the APR declared that she was "*not aware of anything in relation to this alleged anti-doping rule violation*", including how the Prohibited Substance entered the Horse's body.

**53.** Conversely, the FEI noted that the PR stated that the source of the Prohibited Substance in the Horse's Sample must be an ointment (FOILLE INSETTI) that he applied on the Horse after it was bitten by insects. According to the PR, this ointment was used only for the welfare of the Horse, for allergic problem, and not to enhance performance. The PR allegedly stopped using this ointment only two days before the competitions. Finally, the PR stressed that he was unaware that the substance in the ointment could cause doping in his Horse.

**54.** Apart from this simple statement from the PR, the FEI confirmed that it did not receive any other evidence or documents that could have corroborated

the PR's submissions on the source of the Prohibited Substance (such as for example exact date and route of administration of the medication, medical record of the Horse as well as medical logbook, veterinary statement etc.).

- 55.** Furthermore, after re-checking the ingredients list of the FOILLE INSETTI ointment on the website, the FEI observed that it contains Hydrocortisone and not Hydrocortisone hemisuccinate<sup>14</sup>. The FEI further noted that Hydrocortisone Hemisuccinate is the hemisuccinate salt form of Hydrocortisone. Hydrocortisone hemisuccinate is a synthetic ester and therefore it is not the same substance as hydrocortisone<sup>15</sup>.
- 56.** As a result of the latter findings, the FEI noted three points to be considered in these proceedings:
- the PR might have used a different product with a different ingredients list than the one, which can be easily found and bought on the website; or
  - the packaging might not be labelled accurately, and the ointment does in fact contain Hydrocortisone hemisuccinate; or
  - the Hydrocortisone hemisuccinate was from another source (the FEI stated that it was possible to buy this substance as an injectable).
- 57.** Unfortunately, the FEI confirmed that it was not possible to determine if any of the above scenarios were true for this case due to lack of any corroborating and supporting evidence.
- 58.** The FEI also observed that it was also unclear whether the PR stopped using this ointment two days before the start of the Event (i.e., 21 April 2021) or two days before the competition in which the PR-Horse combination participated (meaning 23 April 2021). This information was crucial in order to assess whether the ointment was used during or outside of the *In-Competition* period (which would potentially have implications on the level of Fault or Negligence of the PR and the APR as well as the scientific plausibility of the provided explanation).

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<sup>14</sup> See for example: <https://www.efarma.com/foille-insetti-0-5g-100g-idrocortisone-crema-antinfiammatoria-15-g.html>; <https://www.amicafarmacia.com/foille-insetti-crema-15g-0-5.html>; <https://www.farmaciapasquino.it/farmaci-da-banco/dermatologici/foille-insetti-crema-15-g-05-/9145.html>; <https://www.vitamincenter.it/foille-insetti-crema-15-g-0-5-020051037.html>;

<sup>15</sup> See for example: <https://pubchem.ncbi.nlm.nih.gov/compound/Hydrocortisone-hemisuccinate> and <https://pubchem.ncbi.nlm.nih.gov/compound/5754>



59. Accordingly, the FEI maintained that having regard to all of the above considerations set out thus far, especially the lack of any corroborating evidence in addition to the PR's statement, the FEI submitted that neither the APR nor the PR proved, on the balance of probabilities, how the Prohibited Substance entered the Horse's body at this stage of the proceedings.
60. Furthermore, the FEI noted that should the APR submit additional evidence to the Tribunal in relation to the potential source of the Prohibited Substance during the course of these proceedings, the FEI reserved its right to respond to this additional evidence.

**c) Fault/Negligence for the rule violation**

61. In order to evaluate the APR's degree of fault, the FEI set out the definitions of fault in order to clarify the factors to be taken into consideration;
- *"Fault". Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Person Responsible and/or member of the Support Personnel's and/or other Person's degree of Fault include, for example, the Person Responsible's and/or member of the Support Personnel's and/or other Person's experience, whether the Person Responsible and/or member of the Support Personnel and/or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Person Responsible and/or member of the Support Personnel and/or other Person and the level of care and investigation exercised by the Person Responsible and/or member of the Support Personnel and/or other Person in relation to what should have been the perceived level of risk. In assessing the Person Responsible's and/or member of the Support Personnel's and/or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Person Responsible's and/or member of the Support Personnel's and/or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that the Person Responsible would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Person Responsible only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Articles 10.6.1 or 10.6.2. (emphasis added).<sup>16</sup>*

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<sup>16</sup> Appendix 1 EADCMR

- *"No Fault or Negligence". The Person Responsible and/or member of the Support Personnel and/or other Person establishing that he or she did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had administered to the Horse, or the Horse's system otherwise contained, a Banned or Controlled Medication Substance or he or she had Used on the Horse, a Banned or Controlled Medication Method or otherwise violated an EAD or ECM Rule. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Horse's system.* (emphasis added).<sup>17</sup>
- *"No Significant Fault or Negligence". The Person Responsible and/or member of the Support Personnel establishing that his fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the EADCM Regulation violation. Except in the case of a Minor, for any violation of Article 2.1 of the EAD Rules and Article 2.1 of the ECM Rules, the Person Responsible must also establish how the Prohibited Substance entered the Horse's system.* (emphasis added).<sup>18</sup>

**62.** In terms of the degree of Fault and Negligence by the APR for the ECM Rule Violation, the FEI explained that the starting point of any evaluation is the "personal duty" of the APR following from Article 2.1.1 of the ECM Rules, i.e., his personal duty to ensure that "no Controlled Medication Substance is present in the Horse's body". However, as demonstrated in the previous paragraphs of this Decision, the APR had not discharged her burden of proving how the Prohibited Substance (Hydrocortisone hemisuccinate) entered the Horse's system.

**63.** Consequently, due to the lack of information and corroborating evidence surrounding the circumstances that led to this Equine Controlled Medication Rule Violation, the FEI could not evaluate the APR's level of Fault or Negligence for the Rule Violation, if any, according to Article 10.5 and Article 10.6 of the ECM Rules. Therefore, the FEI confirmed that no elimination or reduction of the standard period of Ineligibility in this case was possible under Article 10.5 or Article 10.6.

Therefore, the FEI stated that the applicable sanction for the present violation amounts to six (6) months Ineligibility period in accordance with Article 10.2 of the ECM Rules. Furthermore, they noted again that even if

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<sup>17</sup> Appendix 1 EADCMR

<sup>18</sup> Appendix 1 EADCMR

the source of the Prohibited Substance is established at later stage of the proceedings, the FEI reserved its right to submit additional responses regarding the APR's level of Fault or Negligence (as at this stage of the proceedings and with information currently in the FEI's possession it was not possible).

**d) Disqualification of results**

- 64.** The FEI did not submit any request for the disqualification of results obtained by the PR and Horse combination at the Event as this was requested in the procedure against the PR.

**e) Fine and costs**

- 65.** The FEI referred to Article 10.2 of the ECM Rules which provides that a fine of up to CHF 15'000 and the appropriate legal costs shall be imposed for any Controlled Medication Rule Violation.
- 66.** The FEI also requested that a fine of three thousand five hundred Swiss francs (3500 CHF) is imposed on the APR, and that the APR should be ordered to pay the legal costs that the FEI incurred in pursuing this matter, namely two thousand Swiss francs (2000 CHF).

**VII. Jurisdiction**

- 67.** The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 167 of the GRs, the ECM Rules and Article 18 of the IRs. The APR is a member of the ITA-NF, which is a member of the FEI; therefore, the APR is bound by the ECM Rules.

**VII. The Decision**

- 68.** 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 this decision.
- 69.** The APR, Ms. Arianna Bonanno, was the registered Trainer of the Horse at the time of the Event and as such, was considered as the Additional Person Responsible in these proceedings pursuant to Article 118 paragraph 3 of the GRs.

***Considering***

- 70.** The Horse's A Sample confirmed the presence of a Controlled Medication Substance. As set forth in Article 2.1 of the ECM Rules, sufficient proof of an ECM Rule Violation is established by the presence of Hydrocortisone hemisuccinate in the Horse's A Sample urine. Hydrocortisone hemisuccinate is classified as a Controlled Medication Substance under the 2021 FEI Equine Prohibited Substances List and the presence of a substance of this nature during an Event without a valid Veterinary Form is prohibited under Article 2.1 of the ECM Rules. Further, the Tribunal notes that no valid Veterinary Form was submitted during the Event.
- 71.** As a result, the Tribunal confirms that the FEI has established an AAF and sufficiently established, to the Tribunal's comfortable satisfaction, the offence in accordance with Article 3.1 of the ECM Rules.
- 72.** Pursuant to Article 10.2 of the ECM Rules, the Tribunal notes that period of Ineligibility for an Article 2.1 violation, i.e., the Presence of a Controlled Medication Substance in a Horse's sample, as in this case, is six (6) months, subject to a potential reduction or suspension pursuant to Articles 10.5 or 10.6 of the ECM Rules.
- 73.** In cases brought under the ECM Rules, a strict liability principle applies as described in Article 2.1.1 of the ECM Rules. Once an ECM Rule Violation has been established by the FEI, a PR and/or APR has the burden of proving that he or she bears "No Fault or Negligence" for that occurrence, i.e., that he/she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he/she had administered to the horse (or the horse's system otherwise contained) a Controlled Medication Substance (in which case, the presumptive six-months period of Ineligibility is eliminated completely pursuant to Article 10.5 of the ECM Rules for the rule violation as set forth in Article 10.5 of the ECM Rules, or that he/she bears No Significant Fault or Negligence for that occurrence (in which case, the presumptive six-month period of ineligibility may be reduced depending on his degree of fault, pursuant to Article 10.6 of the ECM Rules).
- 74.** "No Significant Fault or Negligence," as set forth in Article 10.6 of the ECM Rules. For Articles 10.5 and 10.6 of the ECM Rules to be applicable, the APR must establish as a threshold requirement how the Prohibited Substances entered the Horse's system. No evidence in this regard was submitted by the APR.

- 75.** The Tribunal notes that the FEI is entitled to rely on the information in its database regarding owners/trainers/ and riders of particular horses. The Tribunal confirmed that it is the trainer's duty to correct information on file with the FEI and if the APR was no longer the trainer, the information in the FEI database should have been taken care of without delay.

Furthermore, the Tribunal noted from the submissions provided that the APR's registration as Trainer of the horse was renewed one week before the competition in question by Circolo Ippico Tenuta L'Ambrosia even though the horse had been moved to another farm on November 1, 2020. Additionally, the APR is an officer of the Circolo Ippico Tenuta L'Ambrosia and as such knew or should have known of the contents of the filings with the FEI.

- 76.** The Tribunal notes that the Endurance Rules do not provide for any exception or discretion that might be exercised in deciding the prosecution of the APR in this case. In this regard the Tribunal also has the advantage of jurisprudence from a previous Appeal hearing wherein it was examined whether exceptions may be granted i.e., *the UAE v FEI Appeal Decision*<sup>19</sup>, the hearing panel in this case held that if a particular rule does not actually provide for granting of exceptions, then no exceptions may be granted, thus the findings in the UAE Decision set an important precedent. In this Decision the hearing panel states in paragraph 6.8:

*"The Tribunal considers that the wording of the relevant provisions is clear and the ERs do not provide for any exceptions. The Tribunal also notes the FEI's position in this regard, namely that the particular rule itself does not actually provide for granting of exceptions, and that the implication was that if a rule does not state that exceptions are possible, no exceptions may be granted. The Tribunal fully agrees."* [Emphasis is added.]

- 77.** Additionally, the Tribunal also refers the APR of the recent case of FEI v Bluman<sup>20</sup>, which reflected on similar principles of administration, albeit in the case of Bluman it related to the registration of the nationality of a horse, notably the Tribunal held the following in paragraph 61 of that Decision:

*"61. The Tribunal acknowledges that proper registration on FEI Database is paramount to the FEI because the FEI is not the entity responsible for inputting a horse's nationality. This is*

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<sup>19</sup> UAE v FEI, FEI Tribunal Decision, 27 February 2019, paras 6.8 - 6.9 FEI Exhibit 7

<sup>20</sup> FEI Exhibit 1

*the responsibility of the NFs and Athletes. The FEI relies on its Database as the mechanism to ensure that the rules and regulations are complied with.”*

- 78.** In this regard, whilst the APR sent further submissions, statements, and identification documents to the Tribunal from various industry colleagues on 17 February 2022 maintaining again that she was not the Trainer of the Horse, the Tribunal found that there was nothing in these additional submissions that served to relieve the APR of her liability as the registered Trainer nor rebut the presumption of fault that would allow the reduction or elimination of the period of ineligibility pursuant to 10.4, 10.5 or 10.6. Additionally, the Tribunal finds that the FEI must be allowed to rely on the FEI Database and that the burden of correcting the Database lies with the APR, a duty she failed to discharge.
- 79.** Therefore, the Tribunal finds that the APR has not discharged her burden of proving she bore no fault or significant fault or negligence pursuant to Articles 10.4, 10.5 and 10.6 of the ECM Rules.
- 80.** The Tribunal finds that the applicable period of Ineligibility is six (6) months pursuant to Article 10.2 of the ECM Rules is appropriate in this case. The Tribunal notes that although it is a harsher penalty than the PR received (3 months), the APR chose not to select the Administrative Sanctions option offered.

However, with respect to the fine to be imposed and the procedural costs, the Tribunal takes into account that the APR cooperated with the FEI and the Tribunal and even provided further submissions insofar as possible to defend her position. Accordingly, the Tribunal rules that the fine to be imposed is reduced to one thousand five hundred Swiss Francs (CHF 1 500) and the legal costs to be borne by the APR will also be reduced to one thousand Swiss Francs (CHF 1 000).

### **VIII. OPERATIVE PART OF THE DECISION**

- 81.** In summary, the Tribunal imposes the following sanctions in accordance with Article 167 of the GRs and Article 10 of the ECM Rules:

#### **Sanctions:**

- a) The Tribunal upholds the charge that the APR violated Article 2.1 of the ECM Rules;

- b) The APR shall be suspended for a period of six (6) months, starting as of notification of the present decision;
- c) The APR is fined one thousand five hundred Swiss Francs (CHF 1 500);
- d) The APR shall pay his part of the costs of these proceedings in the amount of one thousand Swiss francs (CHF 1 000);
- 82.** No PR or APR 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 10.13.1 of the ECM Rules).
- 83.** Where a Person Responsible, Additional Person Responsible or other member of the Support Personnel who has been declared Ineligible violates any of the conditions in the previous paragraph during Ineligibility, the results of any such participation will be disqualified and a new period of Ineligibility equal in length up to the original period of Ineligibility will be added to the end of the original period of Ineligibility. In addition, further sanctions may be imposed if appropriate (Article 10.13.3 of the ECM Rules).
- 84.** According to Article 165 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.
- 85.** In accordance with Article 12 of the ECM 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 its receipt.

**IX. DECISION TO BE FORWARDED TO:**

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

**FOR THE FEI TRIBUNAL**



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**Ms Diane Pitts, One-Member Panel**