

DECISION of the FEI TRIBUNAL

dated 6 January 2022

in the matter of

Mr Guillermo BEQUIO (PR) and Mr Juan Miguel LABREA (APR; Ref. C21-0057)

(FEI Case number: FEI 2021/CM06 – SPIDERMAN)

FEI Tribunal Hearing Panel:

Mr Martin Gibbs (GBR), one-member panel

FEI Tribunal Reference: C21-0057 [2021/CM06 SPIDERMAN]

Person Responsible/ID/NF: Guillermo BEQUIO/10243886/URU

Additional Person Responsible/ID/NF: Juan Miguel LABREA/10219132/URU

Horse/Passport/NF: SPIDERMAN/106YO67/URU

Event/ID: CEI1*100 - Trinidad (URU) 09-11.07.21, 2021_CI_1523_E_S_01

Date of Event: 10.07.2021

Prohibited Substance(s): Flunixin, 4-methylaminoantipyrine

Bar Code No.: 5604093

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, 24th 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 Rules, 3rd Edition, effective 1 January 2021 (“**EADCM Rules**”).

FEI’s Endurance Rules, Updated 11th Edition, effective 1 January 2021 (“**FEI Endurance Rules**”).

B. **Person Responsible:** Mr Guillermo BEQUIO

C. **Additional Person Responsible:** Mr Juan Miguel LABREA.

D. **Justification for sanction:**

GRs Art. 143.1: “Medication Control and Anti-Doping provisions are stated in the Anti-Doping Rules for Human Athletes (ADRHA), in conjunction with The World Anti-Doping Code, and in the Equine Anti-Doping and Controlled Medication Regulations (EADCM Regulations).”

GRs Art. 118.3: “The Person Responsible shall be the Athlete who rides, vaults or drives the Horse during an Event, but the Owner and other Support Personnel, including but not limited to, grooms and veterinarians may be regarded as additional Persons Responsible if they are present at the Event or have made a relevant Decision about the Horse.”

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)”.

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

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. Mr Guillermo BEQUIO (FEI ID 10243886), the Person Responsible (the "**PR**"), competed with the Horse SPIDERMAN (the "**Horse**") at the CEI1* 100 in Trinidad, Uruguay, on 10 July 2021 (the "**Event**").
2. Mr Juan Miguel LABREA (FEI ID 10219132), the Additional Person Responsible (the "**APR**") was the registered Trainer of the Horse, with which the PR competed at the Event.
3. The Fédération Equestre Internationale (the "**FEI**" together with the PR and the APR, the "**Parties**") is the sole international federation for equestrian sport recognised by the International Olympic Committee. The FEI is the governing body of the FEI equestrian disciplines (Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, Reining, Para-Equestrian).
4. Blood samples were collected from the Horse during the Event and returned a positive result for Flunixin and 4-methylaminoantipyrine.
5. Flunixin is an anti-inflammatory medication used as analgesic and 4-methylaminoantipyrine is a non-steroidal anti-inflammatory medication used for analgesia and as antipyretic. These are "**Prohibited Substances**" that are classified as "**Controlled Medication Substances**" under the FEI Equine Anti-Doping and Controlled Medication Regulations ("**EADCMRs**").
6. Furthermore, and as no Veterinary Form was submitted for the use of Flunixin and 4-methylaminoantipyrine, the Adverse Analytical Finding (the "**AAF**") in the Horse's Sample gives rise to a Controlled Medication rule violation (the "**CM Rule Violation**") under the EADCMRs.

7. By way of two separate Notification Letters (the “**Notification Letters**”) addressed to the Uruguayan Federation of Equestrian Sports (the “**URU-NF**”), and dated 17 August 2021, the FEI informed the PR and the APR of an alleged violation of Article 2.1 (*The Presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Horse’s Sample*) and Article 2.2 (*Use or Attempted Use of a Controlled Medication Substance or a Controlled Medication Method*) of the FEI Equine Controlled Medication Rules (“**the ECM Rules**”).
8. The PR and the APR were provisionally suspended as of the date of the Notifications Letters. The PR and the APR were further informed that they had the opportunity to request the B Sample analysis within 10 days of the date of the Notification Letters. Finally, the Notification Letters informed the PR and the APR that they had an opportunity to provide an explanation to the alleged CM Rule Violation within 20 days of the date of the Notification Letters.
9. By way of two separate Notices of Charge (the “**Notices of Charge**”) dated 1 October 2021, the FEI formally notified the PR and the APR of the alleged CM Rule Violation. In these Notices of Charge, the PR and the APR were notified that they were charged with a CM Rule Violation and were informed that they would be considered as the PR and the APR respectively. The FEI informed the PR and the APR that they were granted a 20-day deadline after receiving the Notices of Charge to either admit the CM Rule Violation and accept the proposed consequences, or challenge in writing the assertion of the CM Rule Violation and/or the proposed consequences. The FEI submitted that should the PR and the APR not challenge the assertion of the violations, nor request a hearing in front of the Tribunal within 20 days, the FEI would be entitled to deem that the PR and the APR waived their right to a hearing and admitted the CM Rule Violation as well as accepted the proposed consequences put forward by the FEI, which were the following:
 - Six months suspension in accordance with Article 10.2 of the ECM Rules;
 - Fine of three thousand five hundred Swiss Francs (3’500 CHF);
 - Participation towards the legal costs in the amount of two thousand Swiss Francs (2’000 CHF);
 - Disqualification of the results at the Event, including forfeiture of any prize money, medals or ranking points (for the PR only);
 - Automatic publication of the sanction.
10. Despite the URU-NF acknowledging receipt of the Notices of Charge, neither the PR or the APR submitted any reply to the FEI within the deadlines established by the Notices of Charge.

III. Procedural background in front of the FEI Tribunal

11. By email dated 25 and 26 October 2021 respectively, the FEI submitted the case files to the Tribunal for adjudication. The URU-NF was copied on the FEI's correspondence.
12. On 3 November 2021, the Tribunal Chair 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 the constitution of the hearing panel by 8 November 2021. Furthermore, the Tribunal Chair granted the PR and the APR with the opportunity to respond to the FEI's allegations about the Prohibited Substance discovered in the Horse's system, by providing a statement of defence and any supporting evidence by 23 November 2021. The Tribunal Chair further informed the PR and the APR that should they fail to respond within the deadline, the Tribunal hearing panel would decide this case using the file material in its possession. Finally, the Tribunal Chair informed the Parties of their right to request an oral hearing.
13. On 3 November 2021, the FEI informed the Tribunal that it did not have any objections to the constitution of the hearing panel.
14. On 5 November 2021, the URU-NF sent the Tribunal a letter from the APR, dated 1 November 2021, regarding the case.
15. On 26 November 2021, the FEI informed the Tribunal that it would not request a hearing.
16. On 30 November 2021, the Tribunal wrote to the Parties. It noted that no Party had objected to the constitution of the Panel, and no Party had asked for a hearing. Furthermore, the URU-NF was requested once again to provide the contact details of the PR and the APR. The URU-NF did not answer.

A. Written Submission by the APR :

17. The APR submitted by email received by the Tribunal from the URU-NF on 5 November 2021 the following position dated 1 November 2021 in Spanish with an English translation attached. The Tribunal took the translated version into consideration. It is reproduced below in full.

18. *"I hereby want to clarify the events that occurred on the FEI date of Trinidad, in fact we are novices in the enduro sport, since we were forced to participate due to the suspension of Equestrian Raids because of the pandemic, a sport that we are no amateurs to and that we frequently participate, thanks to this we do not know the FEI enduro regulations, thinking that it is similar to the ones from raid, in this last sport if a horse is suffering from an acute abdomen syndrome it is immediately withdrawn from the competition and treatment is applied (sic), as I did not know, that is what I did, at no time did I think about continuing in the race, but as soon as I found out that the horse had acute abdominal syndrome, my first reaction was to calm the animal down looking for its welfare, wanting to act as quickly as possible so that the picture did not become even more complicated and trying to avoid worsening it. When the authorities came to me to tell me that it was acting badly, I didn't deny the fact, on the contrary, I clarified that I had administered the medicine to the horse and that doing the doping control was unnecessary because the result was obvious.*

As I mentioned earlier, I had administered the medicine to the horse and for me at no time was it something that was out of place, as I repeat in the Federated Equestrian Raid when a horse decompensates measures are taken immediately (sic) to improve the health of the animal and for me this is the most common thing to do, obviously from the moment you administer something to it, the horse is automatically withdrawn from the competition.

I did not know that I should ask for permission to administer the medication, I want to clarify that at no time it was my intention after treating the horse to continue in the race. It was not my intention to violate the enduro rules, it was due to total ignorance of them and trying to take care of the health of the animal, that is why the sanction seems unfair when the results were in sight. The performance of the doping (sic) was unnecessary as I mentioned the drug administered at all times".

19. The APR did not submit any further statements or evidence.

B. Written Responses by the FEI:

20. On 25 and 26 October 2021, the FEI provided its Responses, with respect to the PR and the APR respectively.
21. The FEI submitted that:
- a) According to Article 118.3 of the GRs, *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.

- b) Article 118.3 of the GRs further states: *"In Endurance, the Trainer shall be the additional Person Responsible."* The FEI also highlighted the definition of Trainer in the Endurance Rules, which state: *"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).¹"*
- c) In addition to Article 118.3 of the GRs, the APR was also registered as the Horse's Trainer for the Event in the FEI Database. The FEI submitted that once someone is registered as a Trainer in the FEI database, they acknowledge and accept the definition of a Trainer as per Art. 800 of the Endurance Rules. The registration system and FEI database allow the FEI to hold registered individuals accountable when they violate FEI Rules and Regulations.
- d) Article 3.1 of the ECM Rules makes it the FEI's burden to establish all the elements of the ECM Rule violation, to the comfortable satisfaction of the Tribunal.
- e) The elements of Article 2.1 of an ECM Rule violation 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, it is a "strict liability" offence, established simply by proof that a Controlled Medication Substance was present in the Horse's sample. The results of the A sample analysis confirmed the presence of Flunixin and 4-methylaminoantipyrine, which are Controlled Medication Substances, and constituted "sufficient proof" of the violation of Article 2.1 of the ECM Rules. Therefore, the FEI submitted that it had discharged its burden of establishing that the PR and the APR violated Article 2.1 of the ECM Rules.
- f) Article 10.2 of the ECM Rules provides that a Person Responsible or Additional Person Responsible with no previous doping and/or Controlled Medication offences, but who violates Article 2.1 of the ECM Rules, is subject to a period of Ineligibility of six (6) months, unless he can rebut the presumption of fault on a balance of probability (Article 3.1 of the ECM Rules). If the PR / APR fails to do so, the six (6) months period of Ineligibility applies.
- g) To rebut the presumption of fault, the PR/APR must prove (i) how the Prohibited

¹ FEI Endurance Rules, Article 800.4.1.

Substances entered the Horse's system and (ii) that the PR/APR bears no Fault or Negligence for that occurrence (i.e. that the PR/APR did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that the PR/APR had administered to the horse a Controlled Medication Substance), in which case the period of ineligibility may be eliminated or (iii) that the PR/APR bears No Significant Fault or Negligence for that occurrence, in which case the period of ineligibility may be reduced.

- h) In this case, the FEI submitted that, despite the acknowledgment of receipt of the Notices of Charge by the URU-NF, the PR and the APR did not reply to the FEI's communications. Therefore, the FEI argued they were entitled to deem that the PR and the APR had waived their right to a hearing, admitted the CM Rule Violation and accepted the proposed consequences. The Tribunal notes this submission was written before the APR's letter of 1 November, reproduced at para 18 was received.
- i) The FEI also submitted that since the PR and APR had not provided any responses, they had clearly not established how Flunixin and 4-methylaminoanipyrine had entered the body of the Horse. Also, as a consequence of this lack of responses it was obviously not possible to evaluate the PR or APR's degree of Fault or Negligence and so the FEI's position was that Article 10.5 and Article 10.6 of the ECM Rules could not be applied, i.e. there could be no elimination or reduction of the period of Ineligibility.
- j) In view of the above, the FEI submitted that the applicable period of Ineligibility should be six (6) months be for both the PR and the APR.
- k) On the fine to be imposed, the FEI referred to Article 10.2. of the ECM Rules which provides that, for a violation of Article 2.1 of the ECM Rules, a fine of up to CHF 15,000 and appropriate legal costs shall also be imposed. The FEI Guidelines for fines and contributions towards legal costs provide additional guidance on the appropriate fines and legal costs for Controlled Medication and Banned Substance cases taking into account the level of Fault/Negligence, multiple violations, aggravating circumstances, if present etc. In Controlled Medication cases without any reduction of the Ineligibility period, as in the present case, the fine ranges between CHF 3'000 and CHF 5'000.
- l) On the costs of the proceedings, the FEI submitted that the PR and the APR should be ordered to pay appropriate legal costs, which the FEI submitted should range between CHF 1'000 and CHF 5'000.
- m) The FEI requested the following prayers for relief against the PR:

- (i) *upholding the charge that the PR has violated Article 2.1 of the ECM Rules;*
- (ii) *disqualifying the result(s) of the PR and Horse combination obtained in the Event, and the consequent forfeiture of all medals, points, prize money, etc. won pursuant to Article 9 and 10.1.2 of the ECM Rules;*
- (iii) *imposing a period of Ineligibility of six (6) months on the PR, commencing from the date of the Final Decision (the Provisional Suspension already served by the PR shall be credited against the imposed Ineligibility Period);*
- (iv) *fining the PR in the amount of 3'500 CHF; and*
- (v) *ordering the PR to pay the legal costs of 2'000 CHF that the FEI has incurred in these proceedings.*

n) The FEI requested the following prayers for relief against the APR:

- (i) *upholding the charge that the Trainer has violated Article 2.1 of the ECM Rules;*
- (ii) *imposing a period of Ineligibility of six (6) months on the Trainer, commencing from the date of the Final Decision (the Provisional Suspension already served by the Trainer shall be credited against the imposed Ineligibility Period);*
- (iii) *fining the Trainer in the amount of 3'500 CHF; and*
- (iv) *ordering the Trainer to pay the legal costs of 2'000 CHF that the FEI has incurred in these proceedings.*

o) Finally, the FEI submitted that, should the PR and/or the APR submit additional information and/or documents, the FEI could provide a supplementary response in that regard. The FEI also reserved its right to request an oral hearing, should the PR and/or the APR provide new arguments and/or evidence.

IV. Jurisdiction

22. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 161 of the GRs, the ECM Rules and Article 18 of the IRs. Both the PR and the APR are members of the URU-NF, which is a member of the FEI; therefore, the PR and the APR are bound by the ECM Rules.

V. The Decision

23. 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.

1. The Person Responsible

24. The PR, Mr Guillermo BEQUIO, was the Rider of the Horse at the occasion of the Event and is, as such, to be considered as the Person Responsible pursuant to Article 118 par. 3 of the GRs.

2. The Additional Person Responsible

25. The Trainer is the Additional Person Responsible for the Horse pursuant to Article 118 par. 3 of the GRs and Article 800.4.1 of the FEI Endurance Rules, confirmed by previous decisions of the FEI Tribunal².

3. Considering

26. The Horse's sample confirmed the presence of two Controlled Medication Substances. As set forth in Article 2.1 of the ECM Rules, sufficient proof of an ECM Rule violation is established by the presence of a Prohibited Substance in the Horse's sample. The Tribunal is satisfied that the test results establish the presence of Flunixin and 4-methylaminoantipyrine in the A Sample taken from the Horse at the Event. Flunixin and 4-methylaminoantipyrine are Controlled Medication Substances, the presence of which in a Horse's body during an Event without a valid Veterinary Form is prohibited under Article 2.1 of the ECM Rules.
27. As a result, the FEI has established an AAF and sufficiently proven, to the Tribunal's comfortable satisfaction, the offence in accordance with Article 3.1 of the ECM Rules.
28. Pursuant to Article 10.2 of the ECM Rules, the 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.

² Cf. e.g. FEI Tribunal Decision C21-0014 dated 24 August 2021; FEI Tribunal Decision C20-0045 dated 28 September 2021.

29. 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 bears "*No Fault or Negligence*" for the rule violation as set forth in Article 10.5 of the ECM Rules, or "*No Significant Fault or Negligence*," as set forth in Article 10.6 of the ECM Rules.
30. In order for Articles 10.5 and 10.6 of the ECM Rules to be applicable, the PR and the APR must establish as a threshold requirement how the Prohibited Substances entered the Horse's system.
31. The PR did not submit any position or acknowledge the Tribunal's correspondence.
32. The APR submitted a short statement which is reproduced in full at para 18 above.
33. The Tribunal appreciates the APR's candour in explaining why the medication had been administered and that he was not aware of the applicable Rules and Regulations. The Tribunal notes this does not appear to be in the form of a defence and in any case the legal principle that ignorance of the law is not a defence is widely acknowledged.
34. Therefore, the Tribunal finds that neither the PR or the APR have discharged their burden of proving they bore no fault or significant fault or negligence pursuant to Articles 10.5 and 10.6 of the ECM Rules.
35. The Tribunal finds that the applicable period of Ineligibility is six (6) months pursuant to Article 10.2 of the ECM Rules.
36. With respect to the fine to be imposed and the procedural costs, the Tribunal takes into account the effort made by the APR to explain what happened and his admission. Consequently, the fine to be imposed on him will be reduced to two thousand five hundred Swiss Francs (CHF 2,500) and the procedural costs to one thousand Swiss Francs (CHF 1 000).
37. Given the PR ignored the Tribunal and indeed the FEI in this matter, the Tribunal rules that the fine to be imposed and the procedural costs to be borne by the PR should be increased with respect from the amounts that were requested by the FEI. The PR will therefore be fined five thousand Swiss Francs (CHF 5 000) and his part of the procedural costs will amount to three thousand Swiss Francs (CHF 3 000).
38. The Tribunal wrote twice to the URU-NF asking for contact details for the PR and APR. It received no reply or acknowledgement, except for the submission of the

APR's position. The Tribunal requests that the FEI consider the appropriate consequences of ignoring the Tribunal in this instance, and indeed generally, given the importance of the cooperation of national federations to the FEI's disciplinary processes.

VI. Operative part of the Decision

39. In summary, the Tribunal imposes the following sanctions in accordance with Article 169 of the GRs and Article 10 of the ECM Rules:

On the PR:

- a) The Tribunal upholds the charge that the PR violated Article 2.1 of the ECM Rules.
- b) The PR shall be suspended for a period of six (6) months, starting as of notification of the present decision. The period of Provisional Suspension, effective from 17 August 2021, shall be credited against the period of Ineligibility imposed in this decision. Therefore, the PR will be ineligible until 16 February 2022.
- c) The PR is fined five thousand Swiss Francs (CHF 5 000).
- d) The PR shall pay his part of the costs of these proceedings in the amount of three thousand Swiss francs (CHF 3 000).

On the APR:

- 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. The period of Provisional Suspension, effective from 17 August 2021, shall be credited against the period of Ineligibility imposed in this decision. Therefore, the APR will be ineligible until 16 February 2022.
 - c) The APR is fined two thousand five hundred Swiss Francs (CHF 2 500).
 - d) The APR shall pay his part of the costs of these proceedings in the amount of one thousand Swiss francs (CHF 1 000).
40. 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).

41. Where a Person Responsible or 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).
42. According to Article 168 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.
43. 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.

VII. 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



Mr Martin Gibbs, One-Member Panel