

CONSENT AWARD

dated 29 July 2022 and issued by the

FEI TRIBUNAL

Sitting in the following composition:

Sole Panel Member: Mr Martin Gibbs (GBR)

in the matter between:

FÉDÉRATION EQUESTRE INTERNATIONALE (FEI)

and

Mr Michael KEARINS in his capacity as the **Person Responsible** in the following case:

Case: C22-0014 KEARINS

FEI Case reference: 2021/TP01, GANT EK

Horse/Passport: GANT EK/106ZY65/MEX

Person Responsible/ID/NF : Michael KEARINS/10010499/IRL

Event/ID: CSI2*- Puebla (MEX), 15-19.09.2021, 2021_CI_0990_S_S_01

Date of Rule Violation: 18.09.2021

Rule Violation: Tampering or Attempted Tampering

I. Parties

1. The Fédération Equestre Internationale (the “FEI”) is the sole IOC recognised international federation for equestrian sport. The FEI is the governing body for the FEI equestrian disciplines of dressage, jumping, eventing, driving, endurance, vaulting, reining, and para-equestrian.
2. Mr Michael KEARINS (FEI ID 10010499), the Person Responsible (the “PR”), is a Rider from Ireland, who competed with the horse, Gant EK (the “Horse”) at the CSI2* in Puebla (MEX), between 15 and 19 September 2021 (the “Event”).

II. Factual background

3. At the Event, the Horse was selected for testing, and returned a positive result for Phenylbutazone and Oxyphenbutazone.
4. Phenylbutazone is an anti-inflammatory medication with analgesic effect, and Oxyphenbutazone is a metabolite of Phenylbutazone. The positive finding of Phenylbutazone and Oxyphenbutazone in the Horse’s sample gave rise to a Controlled Medication Rule Violation (the “**CM Rule Violation**”), as notified by the FEI to the PR by way of a Notification Letter dated 4 November 2021 (the “**4 November 2021 Notification Letter**”). The CM Rule Violation procedure concluded in the acceptance of an administrative procedure by the PR, on 16 January 2022, which resulted in the following sanctions imposed on the PR:
 - Disqualification from the whole Event and forfeiture of all prizes and prize money won at the Event with the Horse; and
 - Fine of CHF 1’500.-.
5. Following the testing procedure, several issues were reported by FEI Officials present on site, which led the FEI to open a separate procedure (the “**Tampering Procedure**”) against the PR, for a possible violation of Art. 2.4 of the EAD Rules, i.e. “*Tampering, or Attempted Tampering with any part of Doping Control*”, as notified by the FEI to the PR by way of a Notification Letter dated 24 November 2021 (the “**24 November 2021 Notification Letter**”). The Tampering Procedure is the subject of this Consent Award.

III. Account of the facts from FEI Officials

Testing Veterinarian Reports

6. The Testing Veterinarian present at the Event, Mr Eduardo Flores Colín, submitted a Report on the relevant facts on 18 September 2021 (the “**18 September 2021 Testing Veterinarian Report**”), which was later supplemented with a report generated on 14 October 2021 on the FEI Database (the “**14 October 2021 Testing Veterinarian Report**”).
7. The 18 September 2021 Testing Veterinarian Report described the following.

“By the present, I inform you that today during the Classic competition Quintas Ecuestres, Puebla CSI 2 16-19 september 2021, the horse Gant Ek was targeted to be tested for the EADCMP by the President of the Ground Jury. While testing the horse, the rider Michael Kearins arrived to the Testing Box arguing that the horse had to walk and to be washed in order not to present colic pain. Once at the shower place, the rider demanded the groom to take out the horse and to be substituted because that was not Gant EK, the one that had participated at the Classic competition.*

The groom confirmed that the horse he was washing was Grant EK. The rider demanded once again the horse to be changed. I asked the groom not to leave the place in order to check the microchip and to confirm the horse indentity. I scanned the horse and confirmed the number with the one that I had at the FEI sport app 752097800112107. I showed the number to the rider but he wanted the horse to be changed and I did not allowed; once again I showed him the microchip number and he told me that he was confused beacause the horses are so similar and that one was the right horse. After this situation, I asked the groom to bring the horse into the stall in order to take the samples and when I wanted to check the dcuments, the Passport 106ZY65 was not at my work table anymore.

I asked the VD José Luis Velázquez the situation in order him to know what happened.

At the same time, the horse presented light colic pain and I asked the VSM and PTV Ricardo Gutiérrez to check the horse and he reported everything normal with the horse.

I report the dissapearance of the Passport in order to disclaim all responsability to the VD José Luis Velázquez (resposible for the Passports during the competition) and to my person as responsable fot the document during the EADCMP.

I hope this situation to be followed. , the Horse "was targeted to be tested for EADCMP by the President of the Ground Jury". While the Testing Veterinarian started the testing procedure on the Horse in the testing box, the PR arrived and argued that the Horse had to walk and to be washed in order not to present colic pain." (sic)

8. The 14 October 2021 Testing Veterinarian Report described the following.

"All the facilities were good. We had a situation with the rider Michael Kearins FEI ID 10010499 and the horse GANT EK FEI ID 106ZY65. The horse was targeted for the EADCMP. the groom brought the horse to the testing box with out number, then the rider came and shouting asked the groom to walk and wash the horse in rder him not to have colic, I told him that the horse would be sampled but the rider ordered the grrom to take ut the horse to walk and wash him and told me that he knows the regulations. The groom walked the horse toward the washing area and began tu wash the horse, the rider was talking with other person close to the place where I had the passport, scanner, kit, etc. The rider arrived to the washing area and asked the groom to change the horse beacuse that one was not the FEI horse but I asked the groom the name of the horse and he told that the horse eas GANT EK. The rider shouted nd ordered the groom to change the horse because that one was a national horse and not the one that competed on the FEI competition. The groom walked towards the horse stable and I stopped him in order to scan the horse. I confirmed the microchip number with the screen shot I had from the FEI Sport App. I showed the number to the rider and told him that the horse was GANT EK, he still asked the groom to change the horse but once again I told him not to change the horse, I showed the microchip number and then, the rider said: Oh yes, I confused the horses because they are similar but yes, this is GANT EK. I sampled the horse and when i wanted to check the passport, I was surprised because the passport was not there anymore. I reported the situation to the VD and to the GJP. I sent a report to the foreign jude." (sic)

Foreign Judge Report

9. Under "Official warnings, protests, unusual incidents and irregularities", the Foreign Judge reported, on 28 September 2021, the following:

"After the class 22 "Clasico" the horse, passport number 106ZY65, was chosen for the doping control. I was informed by the President of the Ground Jury, who was informed by the Testing Technician Eduardo Flores, FEI # 10094838, that the rider first said that it was the wrong horse and when the Testing Technician confirmed with the microchip number that it was the horse in question he said that he confused the horse. The Testing Technician proceeded the sampling and when he went to register the sample number the passport was not on the worktable".

Chief Steward Report

10. Under "Unusual incidents, irregularities", the Chief Steward reported, on 4 October 2021, the following:

"There was an incident of horse GANT EK's passport which went missing during the antidoping process which though it was found the next day the incident was reported to the Foreign Judge who in turn put it in her FJ Report".

Additional information from the Testing Veterinarian

11. Upon request from the FEI, the Testing Veterinarian provided, on 9 November 2021, additional information in relation to the incidents which occurred at the Event.

12. When asked whether there was any specific reason for the Horse to be targeted at the Event, the Testing Veterinarian answered:

"Yes. The representative of the FEI in Mexico, received a notification about a blow suffered by the horse and a severe lameness after that situation, The horse competed absolutely healthy and also the day after in accordance with the President of the GJ, decided to select the horse to be sampled."

13. The Testing Veterinarian did not see the other horse (the one that the PR alleged to be similar to the Horse), and thus could not tell whether the two horses were indeed similar.

14. When asked by the FEI "is your impression that the rider really tried to cheat or tamper at the doping control", the Testing Veterinarian answered "Absolutely yes" and that throughout the PR "never stopped shouting".

15. Upon additional queries from the FEI, the Testing Veterinarian further indicated having never spoken to the PR in Spanish, since the FEI official language is English.

16. When asked by the FEI "do you believe [the PR] tried to get away with the horse he knew was positive", the Testing Veterinarian answered "Absolutely I do".

IV. Mr Kearins' positions

17. In the course of the proceedings opened in front of the FEI, the PR submitted various positions by email in relation to both proceedings (the CM Rule Violation and the Tampering Procedure). Initially, on 13 December 2021, the PR contested the facts, and indicated that his brother was responsible for "the doping case", and that as

such his brother would be “prepared to take full responsibility and assume all consequences for this issue moving forward”.

18. Later, on 16 January 2022, and as mentioned in paragraph 4 above, the PR ultimately accepted the administrative procedure for the CM Rule Violation, and therefore, by extension, admitted the CM Rule Violation.
19. With respect to the Tampering Procedure, the PR also initially contested the facts. On 5 January 2022, the PR stated that it was a “completely false accusation”, and that he felt “wrongly accused”. The PR explained that as he was competing in a foreign country, Mexico, he had had difficulty understanding what was required of him. The PR further explained that at a time unknown to him, his brother and another rider “came to the vetting area to look for [him] and realized nobody was there. He saw on a table outside of the lab the passport of the horse was sitting completely unattended. At this point he did pick it up and admitted to that and will take full responsibility for this”. Ultimately, the PR called the Chief Steward to inform him of the above, and returned the passport to his office.
20. Later, on 8 March 2022, and as mentioned in paragraph 36 below, the PR eventually admitted the facts, since he returned to the FEI an Acceptance of Consequences form duly signed. In the Acceptance of Consequences form, the PR duly admitted the Rule Violation, and accepted the proposed Consequences, i.e. a Period of Ineligibility of three months, the disqualification from the whole Event and forfeiture of all medals, points, prize money, etc. won at the Event with the horse, and a fine of CHF 2'500.-.

V. Proceedings in front of the FEI

21. As mentioned above, the FEI first opened disciplinary proceedings against the PR, for the alleged violation of Art. 2.1 of the “ECM Rules, by way of the 4 November 2021 Notification Letter, which was sent to the Irish National Federation (the “**IRL-NF**”), the PR’s national federation, as well as the Mexican National Federation (the “**MEX-NF**”), the Horse’s national federation. In the 4 November 2021 Notification Letter, the PR was notified of the Rule Violation, was informed to be the PR for the Rule Violation, and was informed of the opportunity to request the B Sample analysis within 10 days as well to accept the Administrative Procedure and the proposed consequences within 14 days of the date of the Notification Letter.
22. On 18 November 2021, the FEI followed-up, via email, with the MEX-NF and the IRL-NF, as neither federation had confirmed receipt and confirmed that the 4 November 2021 had been duly transmitted to the PR.

23. On 22 November 2021, the MEX-NF forwarded the FEI's email correspondence of 18 November 2021 to the email address allabouthorseab@hotmail.com. The IRL-NF acting CEO was copied to this correspondence. On the same day, the IRL-NF forwarded said correspondence to the IRL-NF Head of Sport.
24. On 23 November 2021, the IRL-NF Head of Sport replied to the FEI by email, and indicated that the initial email correspondence from the FEI had not been received until 22 November 2021, as it had been caught by their firewall and ended in their spam mailbox. The IRL-NF Head of Sport further stated that the IRL-NF gave the 4 November 2021 Notification Letter to the PR on 22 November 2021.
25. On 24 November 2021, the FEI informed the PR of the opening of separate proceedings, for the alleged violation of Tampering, or Attempted Tampering, contrary to Art. 2.4 of the Equine Anti-Doping Rules (the "EAD Rules") in a notification letter dated 24 November 2021 (the "24 November 2021 Notification Letter"), addressed again to the IRL-NF and to the MEX-NF. The PR was notified of the following: (i) an apparent Rule Violation under the EADCMR have occurred; (ii) Tampering or Attempted Tampering with the doping control is a violation of Art. 2.4 of the EADCMR, (iii) you are the Person Responsible for the Rule Violation, (iv) you may admit the violation, accept the sanctions and receive an automatic six (6) months reduction in the Period of Ineligibility or (v) you have an opportunity to provide an explanation to the alleged violation within 20 days of the date of this Notification Letter.
26. On 1 December 2021, the PR confirmed to the IRL-NF that he had received both Notification Letters, and said he was unclear as to the date on which he had to respond.
27. On 13 December 2021, the PR wrote to the FEI and argued that the PR responsible for this case was his brother, Mr Niall Kearins. The PR further indicated attaching a written statement from his brother, where the latter would be "assuming all of the responsibility for the doping case at the Puebla Horse show. He is prepared to take full responsibility and assume all consequences for this issue moving forward". Finally, the PR requested to "get a date to speak on [his] behalf via telephone conference", and asked the FEI for guidance, in particular whether there would be a form to submit, or a relevant person to speak to.
28. On the next day, the FEI answered by email, and specified the deadlines that were opened for the PR for the two procedures, i.e. 15 December 2021 for the procedure in relation to the alleged Art. 2.1 ECM Rules Violation, and 21 December 2021 for the alleged Art. 2.4 EAD Rules Violation. The FEI further explained to Mr Kearins that he competed with the Horse at the Event, and that consequently, he is the Person

Responsible for the Horse, in accordance with Art. 118 of the GRs. The PR was further informed that, under Art. 10.5 of the EADCMRs, the PR is not relieved from his responsibility as a result of the act of another person.

29. On the same day, the PR requested a “reasonable extension” of the deadline to “come up with some more information on [his] end”, without specifying if his request referred to both proceedings or only one of them. The FEI decided to grant extensions simultaneously for both cases, until 5 January 2022.

30. On 5 January 2022, the PR submitted a position to the FEI, by email, in which he stated:

"In regards to the tampering case, it is a completely false accusation and I feel wrongly accused. Please understand I'm a foreigner in a country that the primary language is Spanish and I do not speak or understand Spanish, with that said a lot of the misunderstandings are a language barrier.

To begin, the horse named Gant Ek was sent to the vet testing area after showing. I came to that area that the horse was in.

The horse was very hot at that point from showing. My groom asked the vet permission to wash the horse to cool him down. We stayed all together there for 10 to 15 minutes. At this time unknown to me my brother Niall Kearins and another rider from the show went to the vetting area to look for us and realized nobody was there. He saw on a table outside of the lab the passport of the horse was sitting completely unattended. At this point he did pick it up and admitted to that and will take full responsibility for this.

I called the chief FEI Stewart named Rafa David to inform him that the passport was picked up by my brother, he told me to drop it off to the office and he would take it from there. He thanked me for taking it to the office. I really believe this is unfair to say this is even considered to be a tampering case for the reason and proof that I was never away from The horse and wasn't the person who took the passport.

The blood was taken from the horse with full acceptance from me. The microchip was scanned and showed the name of the horse in front of me and my groom. All of this was a very difficult process because again I don't speak or understand Spanish. Please, once again I kindly take this into consideration.

I ask wholeheartedly that you consider the Severity that this case will ultimately effect my life and impact my livelihood.

Thank You,

Michael Kearins"

31. On 5 January 2022, the PR transmitted an additional position via email to the FEI, where he indicated that while his brother was the person responsible, he further understood to be the PR moving forward in those cases. The PR further asked the

FEI to indicate what “the reunifications” were, and if there would be any way to “make the process shorter for [him] as this is [his] livelihood and is very much negatively impacting [his] life”.

32. On 13 January 2022, the FEI explained by email once more the possibilities that the PR was granted within the procedures. With respect to the Administrative Sanctions in relation to the CM Rule Violation, the FEI reminded the PR that “the deadline [to accept the administrative sanctions] has passed already on 2 granted extensions. We could be very generous and give you until Monday 17 January 2022 to accept it. (this does not apply to the B sample). Should you NOT chose to accept the administrative procedure. The case will go before the Tribunal and you risk a 6 months suspension and similar cost and fines. We therefore strongly recommend you to accept the administrative procedure” (sic).
33. On 16 January 2022, after being granted two deadline extensions by the FEI (on 14 December 2021 and on 13 January 2022), the PR signed the Administrative Procedure Form in relation to the 4 November 2021 Notification Letter, which resulted in the case related to the violation of Art. 2.1 of the ECM Rules to be closed in accordance with this Administrative Procedure.
34. Subsequently, on 23 February 2022, the PR was charged by the FEI with a violation of Art. 2.3 of the ECM Rules (the “**Charge Letter**”). In the Charge Letter, the FEI informed the PR that “in accordance with Art. 7.1.4 ECMR you have been notified of the alleged EADCM rule violation, since the FEI Officials reported an alleged tampering violation. Following the review of your explanations and the FEI Officials’ reports, the FEI is satisfied that you have committed a rule violation(s) under the ECMR, since the underlying violation is an ECMR violation. This is a formal notice that you are being charged with a violation of Art. 2.3 – Tampering, or Attempted Tampering with any part of Doping Control under the ECMR”. The Tribunal understands that this Charge Letter effectively replaced the charge brought in the 24 November 2021 Notification Letter under the EAD Rules and the reason for this, given to the Tribunal by the FEI was that “Tampering should only be under the EAD rules but however, the last version of the EADCMRs also has it under the ECM rules, hence 6 months instead of 2 years sanction. Given this deviation and unclarity in the rules the FEI had to go for the most beneficial for the PR, according to CAS case law”.
35. In the Charge Letter, the FEI provided the PR with an option to admit the rule violation, accept the proposed consequences and benefit from a three (3) month reduction of the otherwise applicable period of “Ineligibility” of six (6) months in accordance with Art. 10.8.1 of the FEI ECM Rules.

36. On 8 March 2022, the PR submitted to the FEI a duly signed Acceptance of Consequences Form, where the PR admitted the Rule Violation and accepted the following consequences:

- *A Period of Ineligibility of three (3) months commencing from the date of the Final Decision by the FEI Tribunal (any Provisional Suspension already served shall be credited against the imposed Ineligibility Period);*
- *Disqualification from the whole Event and forfeiture of all medals, points, prize money, etc. won at the Event with the Horse;*
- *Fine of CHF 2'500.*

VI. Proceeding before the FEI Tribunal

37. On 15 March 2022, the FEI submitted to the FEI Tribunal the duly signed Acceptance of Consequences Form together with the Notification Letter and the Charge Letter (and respective annexes) and requested that the FEI Tribunal issue a "Consent Award", confirming the accepted consequences to be imposed on the PR.

38. On 14 April 2022, the Tribunal Chair requested additional information from the Parties. In particular, the Tribunal Chair asked the FEI to explain why it had decided to open two separate cases against the PR, one for the alleged violation of Art. 2.1 of the ECM Rules (*The presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Horse's Sample*), and then 20 days later a separate one for the alleged violation of Art. 2.4 of the EAD Rules (*Tampering, or Attempted Tampering with any part of Doping Control by a Person Responsible; Member of the Support Personnel or Other Person*), which the FEI then subsequently decided to treat as a violation of Art. 2.3 of the ECM Rules (*Tampering, or Attempted Tampering with any part of Medication Control that is not otherwise a violation of the ECM Rules by a Person Responsible; Member of the Support Personnel or Other Person*) instead. The FEI was further requested to provide explanations in relation to the discrepancy between the possible sanction in the 24 November 2021 Notification Letter (i.e. up to 2 years Ineligibility and up to CHF 15'000.- Fine) and the Acceptance of Consequences form submitted on 8 March 2022 and which applies to this Consent Award, where the sanction was reduced to a Period of Ineligibility of 3 months. The FEI was further requested to explain and provide details of how the deadlines set by them in the case had been respected, and was requested to provide the Tribunal with the entire file constituted to date, including any exchanges which occurred between the FEI and the PR.

39. On 14 April 2022, the FEI provided its explanations. In summary, the FEI stated that *"The FEI always notifies any positive case as soon as possible and will not let it wait due to the risk of B sample degradation. The TP¹ case however, required some further investigation and would have meant delays on the FT² case, wherefore they were notified separately. In addition, it is clearly two separate rule violations as per the rules."* The reduction in the sanction came from the fact that the last version of the ECM Rules provide that tampering can also be included, with a 6-months Period of Ineligibility instead of 2 years. The FEI decided to apply the most beneficial rule for the PR, in accordance with CAS case law. The FEI further indicated having granted deadline extensions on two separate occasions, and the PR accepted the procedure within such extension. Finally, the FEI indicated having already submitted the entire case file to the Tribunal, unless the Tribunal requests all email communications.
40. On 19 May 2022, the Tribunal Chair repeated his request for the entire case file, including all email communication between the FEI and the PR, to date.
41. On 19 May 2022, the FEI submitted the requested documents, which contained the emails exchanged between the FEI and the PR, as well as between the FEI and the IRL-NF and the MEX-NF, as detailed in this Consent Award, under Section V above.
42. On 17 June 2022, the Tribunal Chair informed the Parties of the appointment of a sole panel member to adjudicate and approve this case. The Parties were asked to provide any objections to the constitution of the panel by 20 June 2022.
43. On 17 June 2022, the FEI informed the Tribunal that it did not have any objections to the constitution of the panel.
44. Neither party requested an oral hearing.

VII. Jurisdiction

45. The jurisdiction of the FEI Tribunal, which is not disputed, derives from the:

Statutes 24th edition, effective 19 November 2019 ("Statutes"), Arts. 1.5, 38 and 39.

General Regulations, 24th edition, 1 January 2021, Arts. 118, 143.1, 159, 164, 165 and 167 ("GRs").

¹ Understood by the Tribunal to mean: "Tampering case", opened by the FEI under reference Case 2021/TP01, and referred to in this Consent Award as the "Tampering procedure".

² Understood by the Tribunal to mean "Fast-Track", opened by the FEI under reference Case 2021/FT24, and referred to in this Consent Award as the "CM Rule Violation".

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

FEI Equine Anti-Doping and Controlled Medication Regulations ("EADCMRs"), 3rd edition, changes effective 1 January 2021.

VIII. Early Admission and Acceptance of Sanction

46. In accordance with Art. 10.8.1 of the ECM Rules *"Where Person Responsible and/or member of the Support Personnel and/or other Person, after being notified by the FEI of a potential ECM Rule violation that carries an asserted period of Ineligibility of six (6) months or more (including any period of Ineligibility asserted under Article 10.4), admits the violation and accepts the asserted period of Ineligibility no later than twenty (20) days after receiving notice of an ECM Rule violation charge, the Person Responsible and/or member of the Support Personnel and/or other Person may receive a three (3) month reduction in the period of Ineligibility asserted by the FEI. Where the Person Responsible and/or member of the Support Personnel and/or other Person receives the three (3) month reduction in the asserted period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Article.*

IX. Ratification of the Accepted Consequences

47. The PR has explicitly admitted the rule violation and accepted the following consequences (in accordance with the Article 10.8.1 of the ECM Rules):

- A period of Ineligibility of three (3) months commencing from the date of the Consent Award issued by the FEI Tribunal; and
- Disqualification from the whole Event and forfeiture of all medals, points, prize money, etc. won at the Event with the Horse;
- Fine of CHF 2'500.

48. The Tribunal confirms that the above Accepted Consequences are in accordance with the ECM Rules. The Tribunal recognises of course that the FEI must operate within the strict framework of its rules. However, on the facts of this case and from the witness testimony from the Testing Veterinarian in particular, the Tribunal notes that this is an unusually lenient sanction given that the case involved a PR who:

- (a) By his own admission administered – being himself or by way of his brother – an anti-inflammatory medication with analgesic effect to his Horse which

subsequently resulted in a positive finding for a Controlled Medication Substance (Phenylbutazone, and its metabolite, Oxyphenbutazone). This was apparently to treat lameness caused by a recent injury and therefore to improve the Horse's performance at the Event.

- (b) According to very credible witnesses, in particular FEI Officials at the Event, the PR then shouted at the Testing Veterinarian as well as at his groom and made sustained efforts to exchange his Horse with another horse in an attempt to avoid the testing of the Horse.
- (c) Furthermore, on the facts the PR was then responsible or at least knew of, the removal of the Horse's Passport from the Testing Veterinarian's worktable, in what was clearly, a further attempt to avoid the successful testing of the Horse.
- (d) And lastly, as described in paragraph 30 above, the PR attempted to avoid responsibility for his behaviour by pretending that his brother was in some way responsible for the abovementioned behaviour.

49. The Tribunal notes that it is only thanks to the persistence and honesty of the Testing Veterinarian, the FEI Officials and some of the PR's staff, that the Horse was in fact tested and the Tribunal considers that these officials will likely be rightly concerned that the PR was ultimately given a lenient sanction after his attempts to intimidate them and his persistent attempts to evade the testing of the Horse.

50. The Tribunal further notes that a key factor in the outcome of this case is the separation of the treatment of the PR's behaviour at the Event into two separate cases, one dealt under the administrative procedure described at paragraph 4 above and the other dealt with via this Consent Award. The Tribunal's view is that, common sense and principles of fairness require that one's behaviour be looked at in its entirety, certainly with regards to any sanctions ultimately applied as a result of that behaviour.

51. The Tribunal would like to thank all the Officials involved in the present matter for their professionalism and dedication to the proper enforcement of the FEI Rules.

52. In view of the PR's behaviour the Tribunal finds it hard to understand why the FEI was so willing to provide the PR deadline extensions, on 14 December 2021 (for 22 days), and then on 13 January 2022 (for 4 more days). The second extension was apparently not requested by the PR and thus granted *ex officio* (cf. above, par. 36). The Tribunal also notes that the PR apparently did not submit his acceptance of the Administrative Procedure within the initial deadline given by the FEI. The FEI further waited until 23 February 2022 to issue the Charge Letter in the Tampering procedure, while the

PR had been already informed of the opening of procedure on 24 November 2021 (and informed of the possibility to admit the Rule Violation, as mentioned above at paragraph 19). The latest position submitted by the PR with respect to the Tampering Procedure was on 5 January 2022. The Tribunal therefore also finds it hard to understand why the FEI did not follow-up on the Tampering Procedure at that juncture, rather than waiting seven more weeks to issue the Charge Letter.

53. Finally, the Tribunal notes that the transparency of the overall process has been hampered by the FEI's decision to firstly open the case under the EAD Rules (cf. the 24 November 2021 Notification Letter) and later to transfer it to the ECM Rules, with the consequential lighter sanction under the latter rules. The Tribunal understands that this was done because the last version of the ECM Rules provide that tampering can also be included, with a 6-months Period of Ineligibility instead of 2 years, and thus the FEI decided to apply the most beneficial rule for the PR, in accordance with relevant case law.

54. However, the Tribunal believes that the FEI has acted in good faith but has been constrained by their own rules and methods of working. The Tribunal therefore recommends that these are thoroughly reviewed in light of this case.

ON THESE GROUNDS

1. The Tribunal hereby ratifies the Accepted Consequences by the PR in the case C22-0014 KEARINS [2021/TP01 – GANT EK] and incorporates its terms into this Consent Award.
2. Each Party is hereby ordered to perform the obligations and duties pursuant to the Acceptance of Consequences Form.
3. This Consent Award is pronounced without costs.
4. This Consent Award is final and is not subject to an appeal as the PR has waived this right.
5. This Consent Award shall be published in accordance with Article 13.3 of the ECM Rules.

DECISION TO BE FORWARDED TO:

a. The Parties:

- FEI
- Mr Michael KEARINS (PR)

b. Any other:

- Horse Sport Ireland (NF of Mr KEARINS)
- Federación Ecuestre Mexicana (NF of the Horse)

FOR THE TRIBUNAL

A handwritten signature in black ink, appearing to read 'Martin Gibbs', is centered on the page. The signature is written in a cursive, flowing style.

Mr Martin Gibbs (GBR)