

DECISION of the FEI TRIBUNAL

dated 2 October 2023

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE (the "FEI")

vs.

Mr. PEDRO STEFANI MARINO
(the "Athlete")

Represented by Ms Mariana Chamelette, Hugo Leonardo Advogados,

together the "Parties"

(Reference No. FEI Tribunal: C22-0003)
(FEI Case number: 2022/HD01)

I. Composition of the FEI Tribunal Hearing Panel:

Mr Brian Ward (CAN), Panel Chair.

II. Articles of the Statutes/Regulations which are applicable:

Statutes 24th edition, effective 17 November 2021 (the "Statutes").

General Regulations 24th edition, effective 1 January 2023 (the "GRs").

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

FEI Anti-Doping Rules For Human Athletes, effective 1 January 2021 (the "ADRHAs").

FEI's Endurance Rules, Updated 11th Edition, effective 1 January 2022 (the "ERs").

The World Anti-Doping Code - International Standard – Prohibited List – January 2022 (“Prohibited List”).

III. Parties.

1. The FEI is the IOC-recognised international governing body for the equestrian sport disciplines of Dressage and Para-Equestrian Dressage, Jumping, Eventing, Driving And Para-Driving, Endurance And Vaulting.
2. Mr Pedro Marino (FEI ID 10017829) is an Athlete registered with the National Equestrian Federation of Brazil (the “BRA-NF”) in the discipline of Endurance. The Athlete has extensive experience competing internationally and competed with the horse AL SAIDA LARZAC, FEI ID: 105RN77, at the CEI3* 160 Punta del Este (URU), on 5 December 2021 (the “Event”). The Athlete was tested during the Event and returned a positive result for Carboxy-THC, a Prohibited Substance under the Prohibited List.
3. As a member of the BRA-NF, which is a member of the FEI, the Athlete is bound by the ADRHAs which specifies the circumstances and conduct which constitute violations of the ADRHAs.

IV. Procedural Background:

4. A urine sample was taken from the Athlete on 5 December 2021 for testing under the ADRHAs. The sample was divided into an A Sample, B Sample and sent to a WADA-accredited laboratory; the German Sports University Cologne in Koln Nordrhein-Westfalen, GER (the “Laboratory”) for analysis. The Athlete's samples were given reference number 3159330 (collectively, the “Sample”).
5. The Laboratory analysed the Athlete’s A Sample and reported an Adverse Analytical Finding (an “AAF”) for Carboxy-THC (metabolite of Δ^9 THC) at a concentration of 987 ng/mL. Carboxy-THC is included in the class “S8 Cannabinoids” according to the 2021 Prohibited List. Carboxy-THC is prohibited in-competition and is designated as a “Specified Substance” as well as a “Substance of Abuse”. The positive finding of Carboxy-THC in the Athlete’s Sample gave rise to a violation of Article 2.1 and Article 2.2 under the ADRHAs.
6. Furthermore, the FEI reviewed if the Athlete had an applicable Therapeutic Use Exemption (a “TUE”) granted or to be granted as provided by the International Standard

for Therapeutic Use Exemptions in accordance with Article 7.2.2 of the ADRHAs. It was subsequently confirmed that no TUE had been granted for the use of the substance Carboxy-THC found in the Sample.

7. Consequently, the FEI notified the Athlete through the Notification Letter dated 2 February 2022 (the “Notification Letter”) stating, amongst others, that:
 - the Prohibited Substance Carboxy-THC was present in the Sample collected at the Event;
 - the positive finding of the Prohibited Substance in the Sample may constitute a violation of Articles 2.1 ADRHAs, Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample; and/or Article 2.2 ADRHAs, Use of a Prohibited Substance;
 - a 20-day deadline was granted to the Athlete in order to provide an explanation in relation to the alleged Anti-Doping Rule Violation (the “ADRV”);
 - in accordance with Article 7.4.4 of the ADRHAs, the FEI did not provisionally suspend the Athlete because the Prohibited Substance detected in the Sample was a Specified Substance as well as a “Substance of Abuse”;
 - Pursuant to Article 4.2.3 of the ADRHA, Substances of Abuse are those Prohibited Substances which are specifically identified as Substances of Abuse on the Prohibited List because they are frequently abused in society outside of the context of sport. Nevertheless, the FEI informed the Athlete that in accordance with Article 7.4.4 of the ADRHAs, the Athlete had a right to voluntarily accept a provisional suspension however the Athlete did not elect for this option;
 - he had the right to request analysis of the B Sample within 10 days of the notification of that letter. The Athlete did not request the B Sample analysis and in accordance with the Article 5.1.2.1(c) of the International Standard for Results Management (the “ISRM”) by failing such request the B Sample analysis was considered irrevocably waived.
8. On 22 February 2022, the Athlete replied to the FEI and requested additional information regarding the sample testing kit and a complete set of data in respect of the chain of custody evidence in order to check that no break occurred in the chain of custody link. The requested documents were provided by the FEI on 23 February 2022 and 15 March 2022. Those documents attested that the Sample Collection was conducted in accordance with the corresponding rules and that there were no breaches in the Chain of Custody. It can be noted that the Athlete did not raise any objections regarding the sampling procedures or any potential breaches that may have impacted the result of the

AAF in the Athlete's Sample at that juncture.

9. Following the receipt of the Athlete's initial communications with the FEI (February and March 2022) regarding his intake of the $\Delta 8$ THC, the FEI decided to re-test the Athlete's Sample for the presence of $\Delta 9$ THC and $\Delta 8$ THC. The Laboratory re-tested the Athlete's Sample and identified $\Delta 9$ THC with a roughly estimated concentration of approximately 4 ng/mL. However, no $\Delta 8$ THC was detected by the Laboratory. The Laboratory reported that based on these data there are no indications of the administration of $\Delta 8$ THC.
10. Consequently, on 13 July 2022, the FEI charged the Athlete with a violation of Article 2.1 of ADRHAs (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) and Article 2.2 ADRHAs (Use of a Prohibited Substance). The Athlete decided to provide additional explanations to the FEI and sought to enter into a Case Resolution Agreement with the FEI (Option 1b in the Notice of Charge dated 13 July 2022). However, the FEI confirmed that it was not possible to resolve the present case through a Settlement Agreement, and the case was submitted to the FEI Tribunal (the "Tribunal") for a final decision.
11. Moving forward, on 23 January 2023, the FEI submitted the proceedings with regard to the merits of the case and requested for a hearing panel to be appointed by the Tribunal in order to adjudicate on the case. The FEI also submitted its Response with the relevant annexes.
12. On 17 February 2023, the Tribunal informed the Parties of the appointment of a one-person hearing panel to adjudicate this case. The Parties were asked to provide any objections to the constitution of the hearing panel by 22 February 2022. The Athlete was also provided with the opportunity to reply to the FEI's correspondence by 9 March 2022. Finally, the Parties were given a deadline until 14 March 2022 to indicate whether they requested for an oral hearing to take place.
13. On 20 February and 22 February 2023, the FEI and the Athlete respectively informed the Tribunal that it did not have any objection to the constitution of the appointed hearing panel.
14. On 9 March 2023, the Athlete provided his Reply (to include written submissions and exhibits) to the Tribunal and informed the Tribunal that he wished to exercise his right to have an oral hearing.
15. On 13 March 2023, the FEI acknowledged the Athlete's request for an oral hearing by

videoconference and that they did not have any objections for such a hearing to take place.

16. On 22 March 2023, the Tribunal wrote to the Parties and granted their request to hold a hearing by videoconference. In accordance with Article 25.1 of the IRs, the Tribunal requested that the Parties respond to the Tribunal by 28 March 2023 to indicate several dates on which the Parties and their witnesses would be available for a hearing and to confirm which witnesses were to be summoned.
17. On 28 March, the Parties replied to the Tribunal via email and indicated their availability and the names of their witnesses required to attend.
18. On 3 April, the Tribunal confirmed to the Parties that a hearing would take place on 15 May 2023 at 2pm (CET). The Tribunal also noted in said letter that it was responsibility of each party to furnish the Tribunal with details regarding the participation of any additional attendees or relevant witness(es) by no later than 5pm (CET) on 13 April 2023. Finally, the Tribunal acknowledged the Athlete's request for an interpreter, and the Tribunal reminded them that in accordance with Article 20.2 of the IRs, "Any party wishing to make submissions (personally or through their representative), or to rely on evidence, in a language other than English (or, where agreed, French) must provide an independent interpreter to interpret such submissions or evidence (if oral testimony) or accurate English translations of such evidence (if documentary) for the hearing panel and the other party/parties, at their own cost.
19. On 4 and 12 April 2023, the FEI and the Athlete confirmed their list of attendees for the hearing respectively. The Athlete also requested an extension to the deadline to provide the full name, e-mail, and phone number of the interpreter to provide assistance at the oral phase of the hearing.
20. On 17 April the Tribunal granted an extension to the Athlete to provide the details regarding the interpreter by 1 May 2023.
21. On 4 May 2023, the Tribunal wrote to the Parties and confirmed the provisional timetable of the hearing to be held on 15 May 2023 at 2pm (CET).
22. On 8 May 2023, the Tribunal reminded the Athlete to provide the information and details regarding their interpreter.
23. On 8 May 2023, the Athlete confirmed that he tried to reach an interpreter, but

unfortunately he could not afford their services and as such they wished to dismiss the opportunity to have an interpreter present for the hearing.

24. On 9 May 2023 the Tribunal acknowledged receipt of the Athletes communication regarding the interpreter issue and requested confirmation from all parties that they would be able to participate effectively and be cross examined in English at the oral hearing.

25. On 9 May 2023, the Athlete confirmed that all parties would be able to participate effectively and be cross-examined in English at the hearing.

26. The oral hearing took place on 15 May 2023.

V. The Parties' Submissions¹

i. The Submissions of the Athlete:

27. In reply to the Notification Letter dated 2 February 2022, the Athlete submitted his initial explanation for this ADRV, which can be summarised as follows:

- The Athlete set out his experience and accolades to date, as an International Level Athlete participating in the discipline of Endurance, registered with the BRA-NF and a member of Brazilian Endurance team. He also asserted that over his long career he had never been involved in any controversy to undermine his good image and credibility.
- The Athlete did not deny the possibility that Carboxy-THC may have been present in his Sample as he admitted to using Cannabis outside of equestrian competitions without any aim of improving his sporting performance. Nonetheless the Athlete was surprised by the high concentration of the Carboxy-THC in the Sample. The Athlete also confirmed that he was not a regular user of Cannabis, but smoked it occasionally, for example on recreational trips or reuniting with friends.
- In November 2021, the Athlete submitted that he experienced a really difficult period in his personal life and smoked Cannabis more than usual (one or two

¹ The following section contains a summary of the relevant facts, allegations and arguments based on the Parties' written submissions, pleadings and oral testimonies submitted by them and their respective witnesses and experts throughout the proceedings. Although the Panel has fully considered all the facts, allegations, legal arguments and evidence presented in these proceedings, the Panel will only refer to the submissions and evidence it considers necessary to explain its reasoning in this decision.

cannabis cigarettes almost every day) and that he also smoked Cannabis alone at home.

- On 29 November 2021, the Athlete confirmed that he travelled to Uruguay in order to participate in the CEI3*160. He noted that the use of Cannabis was legal in Uruguay, as well as some other countries in the world.
- On 1 December 2021, the Athlete admitted that he smoked nicotine and a whole THC vape pen that he bought in Uruguay (Exhale Wellness Delta-8 900mg). He claimed that he smoked it at a barbecue one night with some friends in a rented house at Punta del Este. The Athlete also stated that he smoked the THC vape pen for recreational purposes (not with any intention of enhancing his sporting performance). In addition, the Athlete provided testimonies of three witnesses (his friends) who confirmed the occurrence of these events on said night in Punte del Este.
- The Athlete acknowledged that although he knew that the use of Cannabis was prohibited in-competition under the WADA Prohibited List, he assumed that the THC would have been completely excreted from his body and therefore would not enhance his performance in CEI3*160 on 3 December 2021.
- The Athlete also provided an Expert opinion/Psychiatric report² which elucidated that the metabolising process of THC cannot be considered as linear, and its metabolic speed was directly linked to strong variation such as time and each individual's system. Therefore, it was impossible to determine the precise or even approximate moment when the substance was consumed by analysing the amount of it or its metabolites concentration in the Athlete's Sample. Furthermore, the Athlete submitted summary references linked to three academic studies to support the theory that Cannabis did not enhance sports performance.³
- Taking into account the above explanations, the Athlete submitted that he bore No Fault or Negligence for the ADRV. Additionally, the Athlete submitted that he bore No Significant Fault or Negligence for the ADRV and since he demonstrated that the use of Cannabis took place out-of-competition, in a social situation unrelated to sporting performance. Consequently, he submitted that he should only be

² Psychiatric report Dr. Daniel Martins de Barros Dr. Hercílio Pereira de Oliveira Jr. February 2022.

³ Ware MA, Jensen D, Barrette A, Vernec A, Derman W. Cannabis and the Health and Performance of the Elite Athlete. Clin J Sport Med. 2018 Sep;28(5):480-484;

Kennedy MC. Cannabis: Exercise performance and sport. A systematic review. J Sci Med Sport. 2017 Sep;20(9):825-829;

Docter S, Khan M, Gohal C, Ravi B, Bhandari M, Gandhi R, Leroux T. Cannabis Use and Sport: A Systematic Review. Sports Health. 2020 Mar/Apr;12(2):189-199.

sanctioned with a maximum of three (3) months Ineligibility period in accordance with the Article 10.2.4.1 of the ADRHAs.

ii. The Submissions of the FEI:

28. The FEI confirmed that after a detailed review of the initial explanations provided by the Athlete, they decided to re-test the Athlete's Sample for the presence of $\Delta 9$ THC and $\Delta 8$ THC. Following the receipt of the new Laboratory results as well as examination of the general scientific data on 4 July 2022, the FEI excluded the possibility that the high concentration of Carboxy-THC in the Athlete's Sample was caused by smoking the THC vape pen on 1 December 2021. Thus, the FEI issued the Charge Letter on 13 July 2023 and thereafter (August 2022) the Athlete provided additional explanations in relation to his Cannabis consumption which can be summarised as follows:

- Apart from the THC vape pen (Exhale Wellness Delta-8 900mg) the Athlete also stated that he smoked a pure Cannabis joint on 1 December 2021, and this was confirmed via witness statements of two the Athlete's friends⁴;
- In November 2021, the Athlete explained that he bought approximately 120g of Cannabis during November 2021 and was smoking 2 or 3 joints daily. The Athlete estimated that each joint contained around 1,3g or 1,5g of Cannabis considering the size and that all of these joints were made with pure Cannabis, nothing else. The Athlete confirmed he could not recall the specific kinds of Cannabis he bought but tried to buy the best recommended and strongest kind. The Athlete confirmed that he smoked *indica* and *sativa* but did not recall the type of plant he bought and smoked in Uruguay.
- Consequently, it was the Athlete's position that the high concentration of Carboxy-THC in his Sample was the result of his Cannabis consumption (both THC vape pen and Cannabis joint) on 1 December 2022, in addition to the alleged large amounts of Cannabis he consumed on a daily basis in November 2021.

a) Violation by the Athlete - Article 2.1 of the ADRHA:

29. The FEI referred to Article 3.1 of the ADRHAs wherein it is the FEI's burden to establish an ADRV occurred to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation made. The FEI noted that the elements of an Article 2.1 violation are straightforward i.e., *'It is not necessary that intent, Fault, negligence or*

⁴ Witness statements of Mr Lima Garcia and Mr Haddad dated 8 August 2022.

knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1'. Instead, it is a 'Strict Liability' offence, established simply by proof that a Prohibited Substance was present in the Athlete's Sample.

30. The FEI confirmed that the results of the analysis of the A Sample taken from the Athlete at the Event confirmed the presence of Carboxy-THC and constituted sufficient proof that a violation of Article 2.1 of the ADRHAs occurred. In any event, the FEI noted that the Athlete did not dispute the presence of Carboxy-THC in his Sample; quite to the contrary the Athlete admitted to using Cannabis regularly one month prior to sample collection at the Event.
31. Accordingly, the FEI submitted that it had discharged its burden of establishing that the Athlete violated Article 2.1 of the ADRHAs.

b) The special sanctioning system for the Substances of Abuse:

32. The FEI explained that as Carboxy-THC was designated as a Specified Substance and a Substance of Abuse, a special sanctioning system was in place in the ADRHAs when an ADRV involved a Substance of Abuse. In particular, the FEI referred to Article 10.2.4.1 of the ADRHAs which provided that *'If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, then the period of Ineligibility shall be three (3) months Ineligibility. In addition, the period of Ineligibility calculated under this Article 10.2.4.1 may be reduced to one (1) month if the Athlete or other Person satisfactorily completes a Substance of Abuse treatment program approved by the FEI. The period of Ineligibility established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.'*
33. Furthermore, the FEI referred to Article 10.2.4.2 of the ADRHAs which provided that *'If the ingestion, Use or Possession occurred In-Competition, and the Athlete can establish that the context of the ingestion, Use or Possession was unrelated to sport performance, then the ingestion, Use or Possession shall not be considered intentional for purposes of Article 10.2.1 and shall not provide a basis for a finding of Aggravating Circumstances under Article 10.4.'*
34. Therefore, the FEI submitted that if the Athlete could not establish the application of any of the two *lex specialis* as presented at points 32 and 33 above, then the general sanctioning system would be applied, resulting in an Athlete with no previous doping offences who violated Article 2.1 of the ADRHAs receiving a period of Ineligibility of two years⁵ (four years if the FEI could establish that an ADRV was intentional⁶) unless the

⁵ Art. 10.2.2 ADRHAs

⁶ Art. 10.2.1.2 ADRHAs

Athlete was able to rebut the presumption of Fault or Negligence. In order to rebut such a presumption, the Athlete must establish to the satisfaction of the FEI Tribunal (it being his burden of proof, on the balance of probability⁷):

- i. How the Prohibited Substance (here, Carboxy-THC) entered his system; and
- ii. 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 has Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule (in which case, the presumptive two-years period of Ineligibility is eliminated completely pursuant to Article 10.5 of the ADRHA); or
- iii. That he/she bears No Significant Fault or Negligence for that occurrence (in which case, the presumptive two-year period of ineligibility may be reduced depending on his/her degree of fault, pursuant to Article 10.6 of the ADRHA). Furthermore, if the Athlete failed to also discharge this additional burden, the presumptive two-year (or four-year) ban under Article 10.2 of the ADRHA would be applied.

c) Timing and context of the ingestion or Use of the Substance of Abuse:

35. The FEI submitted that in order for the special sanctioning system to be applied, the Athlete must establish the following criteria:

1. that he ingested or Used the Substance of Abuse Out-of-Competition;
2. that his ingestion or Use was unrelated to his sports performance.

36. The FEI referred to the definition section of the ADRHAs wherein it provided that the Out-of-Competition period is '*Any period which is not In-Competition*'. In addition, the FEI noted that the In-Competition period according to this section was '*The period commencing one (1) hour before the beginning of the first Horse inspection the day before a Competition in which the Athlete/rider is scheduled to participate through to the end of the last Competition at the Event for that Athlete/rider or the sample collection process related to such Competition.*'

⁷ Art. 3.1 ADRHAs

37. The FEI confirmed that the Athlete participated in two Competitions during the Punta Del Este Event, namely CEI2*120 on 4 December 2021 and CEI3*160 on 5 December 2021. The first horse inspection for the CEI2*120 Competition started on 3 December 2021 at 14.00 and therefore the In-Competition period in the Athlete's case started on 3 December 2021 at 13.00.
38. The Athlete alleged that he smoked the THC vape pen as well as the pure Cannabis joint, which were presumed to be the source of the Prohibited Substance in his Sample, on 1 December 2021. As such the Athlete maintained that his use of the Substance of Abuse took place Out-of-Competition. In order to verify the scientific plausibility of the provided explanations, the FEI contacted Professor Dr (h.c.) Marilyn A. Huestis, a world-renowned toxicologist researching the effects of illicit drugs on the body, brain and *in utero*.⁸
39. Professor Huestis reviewed all of the Athlete's submissions to date in this case including the Expert opinion/Psychiatric report by Dr Daniel Martins de Barros and Dr Hercilio Pereira de Oliveira Jr. and submitted her own expert opinion on the case to the FEI.⁹ The FEI also highlighted that Professor Huestis conducted controlled administration studies in occasional and chronic frequent Cannabis users with smoked, vaporised or oral dosing of THC (*Huestis et al 2020*) the results of which provide relevant data for the interpretation of the $\Delta 9$ -Carboxy-THC results in the present case. By extracting the relevant data from her study and comparing it to the specific circumstances of the present matter, Professor Huestis made the following determination in her report dated 19 December 2022:

"The Athlete's $\Delta 9$ -carboxy-THC concentrations on December 5th after his last competition was 987 ng/mL, 88 h and 46 min after he indicated smoking the $\Delta 8$ -THC-nicotine vape pen on December 1, 2021, based on the latest possible time of 11:59 pm. The one chronic frequent Cannabis user from Professor Huestis study who had 927 ng/mL $\Delta 9$ -carboxy-THC at his last collection 85.7 h after he ceased smoking, reported smoking 20 blunts per day for 18 years. The Athlete reported

⁸ Professor Huestis recently retired as a tenured senior investigator and Chief, Chemistry and Drug Metabolism Section, IRP, National Institute on Drug Abuse, National Institutes of Health, after 23 years of conducting controlled drug administration studies. Professor Huestis was also an Adjunct Professor, University of Maryland School of Medicine, Baltimore, MD until 2017. Currently, Professor Huestis is Senior Science and Policy Advisor, Pinney Associates; Senior Fellow, Institute on Emerging Health Professions, Thomas Jefferson University, Philadelphia; PA, Honorary Professor, Barts & London School of Medicine & Dentistry, Queen Mary University of London, England; Adjunct Professor, College of Pharmacy, University of New Mexico, on the Smart Approaches to Marijuana (SAM) Science Advisory Board, and President of Huestis & Smith Toxicology, LLC. Her research program focuses on discovering mechanisms of action of cannabinoid agonists and antagonists, effects of in utero drug exposure, oral fluid drug testing, driving under the influence of drugs, neurobiology and pharmacokinetics of psychoactive substances and identification and quantification of drugs by mass spectrometry. Professor Huestis' research also explored new medication targets for cannabis dependence.

⁹ Huestis & Smith Toxicology, LLC, report dated 19 December 2022.

smoking Cannabis only occasionally until November 2021 and that he smoked $\Delta 8$ -THC on December 1st. No $\Delta 8$ -carboxy-THC was found in the Athlete's urine when it was retested and the laboratory performing the testing clearly differentiates $\Delta 8$ - and $\Delta 9$ -carboxy-THC. The Athlete reports smoking $\Delta 9$ -THC no later than December 1, 2021, or 88 h prior to the positive urine test of 987 ng/mL $\Delta 9$ -carboxy-THC. It is highly unlikely that the Athlete's last use of $\Delta 9$ -THC was 88 h prior to competition and his urine collection".

40. The FEI submitted that the latter findings were also validated by data from another study (*Schwilke et. al., 2011*) where participants resided on a closed research unit at the National Institute on Drug Abuse throughout the study and had no access to Cannabis – in this study only 6% (4 of 68 participants) providing 1100 urine specimens for development of the model had initial concentrations of $\Delta 9$ -Carboxy-THC ≥ 800 ng/mg creatinine on admission AND exceeded 200 ng/mg on day 5. In most participants, $\Delta 9$ -Carboxy-THC concentrations dropped rapidly from higher Carboxy-THC concentrations early in the excretion process.
41. In addition, the FEI referred to another controlled administration study (*Desrosiers et. al., 2014*), at the 180 ng/mL Carboxy-THC World Anti-Doping Agency decision limit, only 50% of frequent smokers were positive 0–6 hours post dose and at 24-30 hours after dosing only 3.9% of chronic frequent smokers' urine samples were positive after smoking.
42. The FEI stated that the scientific opinion and findings submitted by Professor Huestis rebutted various statements and assertions presented in the Athlete's Expert opinion/Psychiatric report. These rebuttals were out in her expert report dated 19 December 2022 (summarised as follows):
 - i. Firstly Drs. de Barros and de Oliveira Jr. misinterpreted and misrepresented the WADA Code when they described substances or methods prohibited In-Competition as those that "*do not enhance the athlete's performance, do not put their health in danger and do not even hurt the spirit of sports, if they are not used during the competition*". There was nothing in the WADA Code that supports these conclusions;
 - ii. Drs. de Barros and de Oliveira Jr. also suggested that the urinary elimination half-life of $\Delta 9$ -carboxy-THC is 13 days based on data presented in *Smith-Kielland et al 1999*. However according to this study, the mean urinary excretion half-life was 1.3 days for infrequent cannabis users and a median of 1.4 days in frequent cannabis users

over the first five days (the period of interest in this case). A frequent user had an elimination half-life of 10.3 days when monitoring continued to a cutoff of 15 ng/mL. This article did not support an elimination rate of 13 days within the first 5 days of elimination. Some frequent Cannabis users in this study also admitted self-administering cannabis during the study, making the results questionable.

Also, the highest $\Delta 9$ -carboxy-THC concentration was just over 550 ng/mL (most had much lower peak urinary concentrations) and the concentration dropped to approximately 200 ng/mL in one day. The Athlete's concentration of 987 ng/mL was much higher than the peak in this study and according to the athlete resulted from smoking the evening of December 1st, four days before the sample was collected; hence, the applicability of the 1.4-day elimination half-life.

- iii. Professor Huestis agreed with Drs. de Barros and de Oliveira Jr. that the elimination of $\Delta 9$ -carboxy-THC was not linear. However, Professor Huestis stressed that initially the concentration drops rapidly, and the later slower elimination rate applies to the much lower concentrations occurring from the release of $\Delta 9$ -carboxy-THC stored in the fat tissues. The rate limiting step in the urinary elimination of $\Delta 9$ -carboxy-THC is the return of sequestered THC from the tissue into the blood that becomes notable at low concentrations but contributed little to the excretion at high concentrations.
- iv. Another study cited by Drs. de Barros and de Oliveira Jr. (*Lowe et al 2009*) also did not support their contention that the Athlete smoked Cannabis Out-of-Competition. Rather this study shows that none of the 33 chronic frequent cannabis users had $\Delta 9$ -carboxy-THC concentrations close to 987 ng/mL 88 hours after their last use and these Cannabis smokers from the study had a much more intensive Cannabis use history than the Athlete (who was an occasional Cannabis user until November of 2021). The data from this study showed that even chronic frequent Cannabis users who smoked multiple joints or blunts a day for more than 10 years have a rapid drop in $\Delta 9$ -carboxy-THC concentrations the first few days after smoking and none had concentrations close to 987 ng/mL a few days after smoking.

- v. Furthermore, there was no scientific basis for Drs. de Barros and de Oliveira Jr. stating that a $\Delta 9$ -carboxy-THC concentration greater than 100 ng/mL indicated recent use within the last seven days. It is unclear why Drs. de Barros and de Oliveira Jr. referenced the *Langman et al 2018 Tietz* textbook chapter for the sentence in their opinion “Levels higher than 500 ng/ml, on the other hand, indicate an association of repetitive use along the past months and recent use, as well as an important reservation: it is impossible to tell exactly when such use took place during the last 7 days.” There was nothing in this short chapter on cannabinoids that supports this opinion.

43. In summary, Professor Huestis conclusions on the present case can be summarised as follows:

- She noted that the Athlete claimed that THC neither improved nor impaired sports performance, but this claim was not substantiated, and it still remained a controversial issue in the sport and scientific community (for example, the potential for performance enhancement through neuropsychological effects still cannot be excluded), thus Carboxy-THC was a prohibited substance In-Competition;
- She also noted the varying explanations submitted by the Athlete regarding his Cannabis use by changing his story in different submissions and responses to FEI counsel's questions e.g., the increasing frequency of Cannabis use reported in November 2021 with subsequent submissions. Secondly, and on the contrary, the Athlete was an occasional Cannabis user prior to November 2021 and in that regard his Cannabis use history was much less frequent than the chronic frequent Cannabis users in the cited studies submitted. Nonetheless, she noted that despite the differing THC body stores, urinary cannabinoid excretion in the chronic frequent Cannabis smokers cited showed a much more rapid decrease in urine $\Delta 9$ -carboxy-THC concentrations in the first few days after cannabis smoking than was observed in the Athlete's urine;
- The Athlete also reported smoking $\Delta 8$ -carboxy-THC on 1 December 2021; however no $\Delta 8$ -carboxy-THC was found in the urine when it was reanalysed. At this point, Professor Huestis noted that the Athlete stated he used $\Delta 9$ -THC on 1 December 2021 for the last time however in no case studies evidenced chronic frequent Cannabis user with a high $\Delta 9$ -carboxy-THC concentration of 987 ng/mL in urine 88 hours after the last use. Professor Huestis also

provided numerous data studies in the published literature showing more rapid Δ 9-carboxy-THC excretion the first few days after the daily users ceased smoking Cannabis for the last time;

- Based on the facts of the case and the review of relevant published literature on the urinary excretion of Δ 9-carboxy-THC, Professor Huestis stated that the data presented in respect of the particulars of this case confirmed that it was more likely than not that the Athlete used the prohibited substance Cannabis In-Competition, rather than Out-of-Competition.

44. The FEI also referred to a recently published WADA document entitled “*Summary of Major Modifications and Explanatory Notes, 2023 Prohibited List*”, and noted that the Addendum to this document was wholly dedicated to Cannabinoids. In particular, it stated that:

“At present, the main psychoactive component of cannabis, delta9-tetrahydrocannabinol (THC), is prohibited In-competition and is reported as an Adverse Analytical Finding (AAF) by WADA-accredited laboratories when the urinary concentration- of carboxy-THC exceeds a threshold of 150 ng/mL with a Decision Limit of 180 ng/mL. This threshold was significantly increased in 2013 from 15 ng/mL in order to minimize the number of AAFs In-competition due to potential Use of THC Out-of-competition. This means that with the current threshold, Athletes most at risk of testing positive are those who have consumed significant quantities of THC close to In-competition Doping Control or are chronic users.”

45. The FEI also referred to page 9 of the same document that “*Levels to trigger an Anti-Doping Rule Violation In-competition are such that they would be problematic on medical grounds for a competing Athlete, or indicative of a chronic habitual user.*”

46. The FEI also submitted that WADA’s threshold of 180 ng/mL (which was introduced in order to minimize the number of AAFs In-Competition due to potential use of THC Out-of-competition) was significantly lower than the concentration of Carboxy-THC detected in the Athlete’s Sample which was 987 ng/mL. Therefore, it was clear to the FEI that the Athlete’s case was not close to the threshold established by WADA and such a high concentration by itself pointed to the use of the THC whilst In-Competition.

47. On the other hand, the FEI noted that if the Athlete’s concentration of Carboxy-THC in the Sample was close to the threshold of 180 ng/mL, such concentration could allow support to the claims of the Athlete that he consumed Cannabis Out-of-Competition but due to his specific body metabolism and pattern of consumption, he still tested positive above the indicated threshold however this was not the situation in these proceedings.

48. The FEI highlighted that the “*Summary of Major Modifications and Explanatory Notes, 2023 Prohibited List*” published by WADA also confirmed the findings of Professor Huestis’s Opinion for this case: as multiple studies up to date confirmed a rapid $\Delta 9$ -carboxy-THC excretion in the first few days after Cannabis smoking had ceased therefore it was not possible for a concentration of 987 ng/mL Carboxy-THC to be detected in the Athlete’s Sample four days after the last Cannabis consumption.
49. Given all of the considerations above, and especially the scientific studies conducted to date regarding the Cannabis use and excretion levels in frequent and infrequent users, the FEI submitted that it was highly likely that the Athlete used Cannabis, which resulted in positive Sample, In-Competition, rather than Out-of-Competition. Furthermore, the FEI stated that whilst the FEI did not deny the fact that the Athlete may have smoked the whole THC vape pen (maybe together with a Cannabis joint) on 1 December 2021 for recreational purposes at his friend’s reunion. However, based on the explanations above, the FEI excluded the possibility that this consumption caused the AAF in his Sample which was the subject of the current proceedings. The FEI submitted that the AAF in the Athlete’s Sample was the result of another Cannabis intake occurring during the In-Competition period (which started on 3 December 2021 at 13.00).
50. As regards to the context of Use of the Prohibited Substance, the FEI recalled the following particulars provided by the Athlete:
- i. That he was not a regular user of Cannabis and smoked it occasionally, for example on specific trips and friend’s reunions.
 - ii. That in November 2021, he smoked it more than usual (one or two Cannabis cigarettes almost every day) as he was experiencing a really difficult period in his life: his father was in the hospital struggling with severe health issues and had other personal issues.
 - iii. That on 1 December 2021 he smoked the THC vape pen as well as a pure Cannabis joint during a barbecue with some friends for recreational purposes in a rented house in Punta del Este. This was confirmed by the testimonies his friends in their witness testimonies who were with him at that time.
51. The FEI noted from the clarifications above regarding context of use, the Athlete was a regular user of Cannabis during 2021 and used it for recreational purposes or as a means of dealing with personal difficulties.

52. Notwithstanding the latter clarifications, the FEI confirmed that the exact context and/or circumstances of the Cannabis use which gave rise to the AAF was impossible to determine i.e., whether the Athlete used Cannabis at that time for strictly personal reasons or whether it was connected to his sporting performance. Therefore, the FEI stated that unless the Athlete supplemented his explanation with the full information as regards to his In-Competition Cannabis use, the context of that Cannabis use remained unknown.
53. The FEI also noted that the Athlete submitted that Cannabis neither improved nor impaired sport performance however this argument was not validated and still remains a topical issue.¹⁰ Therefore, on account of the above-detailed considerations, the FEI confirmed that given the use of Cannabis likely occurred In-Competition and the context of its use cannot be determined neither Article 10.2.4.1 nor the Article 10.2.4.2 of the ADRHAs (the special sanctioning system for the Substances of Abuse) could be applied in this case.

d) The general sanctioning system:

54. The FEI submitted that according to the general sanctioning system, an Athlete with no previous doping offences who violated Article 2.1 of the ADRHAs was subject to a period of Ineligibility of two years¹¹ (four years if the FEI can establish that an anti-doping rule violation was intentional¹²), unless the Athlete was able to rebut the presumption of Fault or Negligence. In line with which, the FEI noted that the ADRHAs and the jurisprudence of the FEI Tribunal and CAS are very clear; that it was a strict threshold requirement of any plea of No (or No Significant) Fault or Negligence that the Athlete proved how the Prohibited Substance entered into his system.
55. Furthermore, the FEI noted that the latter requirement must be strictly applied because without such proof it would be impossible to assess the Athlete's degree of Fault or Negligence (or No Significant Fault or Negligence) for the presence of the Prohibited Substance in his body.
56. Whilst the FEI acknowledged that the Athlete smoked a whole THC vape pen together with a Cannabis joint on 1 December 2021 for recreational purposes at his friend's reunion. The Athlete stated that this Out-of-Competition consumption must have been the source of the positive finding in his Sample. However, the FEI stated that the explanations from the Athlete on consumption were not scientifically plausible when the scientific studies of Cannabis use and excretion levels in frequent and infrequent

¹⁰ Summary of Major Modifications and Explanatory Notes, WADA 2023.

¹¹ Art. 10.2.2 ADRHAs

¹² Art. 10.2.1.2 ADRHAs

Cannabis users was considered. Given the opinion of Professor Huestis and WADA's document entitled *"Summary of Major Modifications and Explanatory Notes, 2023 Prohibited List"*, the FEI submitted that it was more than likely than not that the positive result in the Athlete's Sample was caused by another Cannabis ingestion during the In-Competition period, and not Out-of-Competition as alleged by the Athlete. Accordingly, the FEI maintained that the Athlete failed to discharge his burden of proof to establish how Carboxy-THC entered his body and thus, the FEI stated that the "threshold requirement" was not met in the present case.

57. Furthermore, the FEI noted that since the Athlete failed to establish the source of the Prohibited Substance in his body, it was also not possible to evaluate the Athlete's level of Fault or Negligence based on the applicable rules. As a consequence, the presumption of Fault as stipulated in the Article 10.2 of the ADRHAs remained. Consequently, the FEI submitted that no elimination or reduction of the period of Ineligibility in this case was possible and the FEI requested that the applicable period of Ineligibility imposed on the Athlete for the violation of the Article 2.1 of the ADRHAs shall be two (2) years suspension in accordance with the Article 10.2.2 of the ADRHAs (as the FEI cannot establish whether the ADRV was intentional or not).

e) Violation by the Athlete - Article 2.2 of the ADRHAs:

58. The FEI submitted that the elements for a violation of Article 2.2 of the ADRHA's are also straightforward i.e., that *'It is not necessary that intent, Fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method'*. Furthermore, Article 2.2.2 of ADRHAs provided that *'The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.'*

59. Nevertheless, the FEI highlighted the comment to the Article 2.2.2 of ADRHA's which specified that *'An Athlete's Use of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition.'* Therefore, in order for a violation of Article 2.2 of ADRHAs to have occurred, the FEI would need to establish that the Athlete used Cannabis during In-Competition period. As such all considerations presented already in the FEI's submissions in this Decision thus far, are also relevant for this section and provided a full explanation as to why it is highly likely that the Athlete used Cannabis In-Competition, in addition to his Out-of-Competition intake. Accordingly, the FEI

submitted that it has discharged its burden of establishing that the Athlete had also violated Article 2.2 of the ADRHAs.

60. The FEI also referenced Article 10.2 of the ADRHAs which provided that the ineligibility period as well as the conditions for potential elimination, reduction or suspension of such ineligibility period for violation of Articles 2.1 and 2.2 of ADRHAs are exactly the same. Therefore, all deliberations regarding the applicable ineligibility period mentioned in the paragraphs 56-59 above are also applicable for a violation of Article 2.2 of the ADRHAs. As such, no elimination or reduction of the period of Ineligibility in this case was possible and the FEI submitted that the applicable period of Ineligibility imposed on the Athlete for the violation of the Article 2.2 of the ADRHAs shall be two (2) years suspension in accordance with the Article 10.2.2 of the ADRHAs (as the FEI cannot establish that the ADRV was intentional).
61. Furthermore, the FEI noted that Article 10.9.3 of ADRHAs insofar as it provided guidance when imposing sanctions for certain potential multiple violations:

“10.9.3.1 For purposes of imposing sanctions under Article 10.9, except as provided in Articles 10.9.3.2 and 10.9.3.3, an anti-doping rule violation will only be considered a second violation if the FEI can establish that the Athlete or other Person committed the additional anti-doping rule violation after the Athlete or other Person received notice pursuant to Article 7, or after the FEI made reasonable efforts to give notice of the first anti-doping rule violation. If the FEI cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction, including the application of Aggravating Circumstances. Results in all Competitions dating back to the earlier anti-doping rule violation will be Disqualified as provided in Article 10.10”.

62. Since in the present matter both ADRVs were notified to the Athlete at the same time, the FEI confirmed they must be considered together as one single first violation and one sanction (the more severe) shall be imposed. Accordingly, as both violations (Article 2.1 and 2.2 of ADRHAs) warranted the application of the same ineligibility period of two (2) years suspension, the FEI requested that the applicable period of Ineligibility imposed on the Athlete in the present case shall be two (2) years in accordance with the Article 10.2.2 of the ADRHAs for the violation of the Articles 2.1 and 2.2 ADRHAs.

f) Disqualification of results:

63. In respect of Article 9 of the ADRHAs, the FEI noted that an ADRV *'in connection with an In-Competition test automatically leads to Disqualification of the result(s) obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes'*. This rule will be applied even if the period of Ineligibility is reduced or eliminated under Article 10 of the ADRHA, e.g., on the basis of No (or No Significant) Fault or Negligence.
64. Furthermore, Article 10.1 of the ADRHAs provided that *an ADRV "occurring during or in connection with an Event may, upon the decision of the FEI Tribunal, lead to Disqualification of all of the Athlete's results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.2. Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the seriousness of the Athlete's anti-doping rule violation and whether the Athlete tested negative in the other Competitions.'*
65. The FEI noted that Athlete participated in two competitions during the Event, namely in CEI2*120 on 4 December 2021 and in CEI3*160 on 5 December 2021 (where the Sample was collected from the Athlete). Based on the overall circumstances of the present matter and given the fact that the precise intake of Cannabis which led to the positive Sample was not established by the Athlete, it cannot be excluded that the Prohibited Substance Carboxy-THC was present in the Athlete's body on both days of competitions. Therefore, in order to safeguard the level playing field and ensure fairness to all the athletes at those competitions, the FEI also requested that all results obtained by the Athlete in the Event shall be disqualified.
66. In addition to the above, the FEI referred to Article 10.10 of the ADRHAs wherein it was provided that *'In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.'* The FEI confirmed that no special circumstances existed in the present matter which would prevent cancellation of the Athlete's subsequent competitive results and as such requested that all the competitive results obtained from the date of the collection of the positive Sample should be disqualified with resulting consequences i.e., forfeiture of all medals, points, prize money, etc.

g) Fine and costs:

67. The FEI referred to Article 10.12.1 of the ADRHAs wherein it is stated that *'Where an Athlete or other Person commits an anti-doping rule violation, the FEI Tribunal may, in its discretion and subject to the principle of proportionality, elect to (a) have the FEI recover from the Athlete or other Person costs associated with the anti-doping rule violation and/or (b) fine the Athlete or other Person in an amount up to 15'000 Swiss Francs, and in accordance with the FEI Guidelines for Fines and Contributions towards Legal Costs¹³.'*

68. Additionally, Article 10.12.2 of the ADRHAs specified that *'the imposition of a financial sanction or the FEI's recovery of costs shall not be considered a basis for reducing the Ineligibility or other sanction which would otherwise be applicable under these Anti-Doping Rules.'*

69. In particular the FEI referenced "the FEI Guidelines for Fines and Contributions towards Legal Costs" which provided guidelines on a suggested range for fines and legal costs in human doping cases where there was not any reduction of the imposed Ineligibility period. In accordance with those guidelines, the FEI requested that a fine of seven thousand five hundred (7'500) CHF be imposed on the Athlete, and that the Athlete be ordered to pay the legal costs that the FEI has incurred in pursuing this matter, namely five thousand (5'000) CHF.

iii. Summary of the Witnesses' and Experts' testimonies at the hearing (15 May 2023).

a) Athletes first witness - Mr Daniel Abbud Haddad ("DH").

70. DH was the first witness to be questioned at the hearing but due to a language barrier insofar as the witness had a limited level English, he was dismissed (as Counsel cannot act as translator and Counsel at the same time). Therefore, the FEI accepted his witness statement as evidence to be considered by the hearing panel for the purposes of this hearing process and agreed that he would not be cross-examined in these proceedings.

71. The witness statement of DH confirmed that he was with the Athlete, in Punta del Este, Uruguay on 1 December 2021 when the Athlete smoked a nicotine and THC vape pen for recreational purposes with friends. Furthermore, he noted that the Athlete was the only one who smoked the nicotine and THC vape pen.

¹³ FEI Guidelines for fines and contributions towards legal costs, available at: https://inside.fei.org/sites/default/files/FEI_Guidelines_Legal_Costs-Final-Effective_1_January_2021-Updates_05May2021.pdf

b) Athletes second witness - Mr Henrique Pinto Lima Garci ("HG")

72. HG provided his testimony, in English and also confirmed that he did not wish to change anything in his statement submitted on 8 August 2022, i.e., that he saw the Athlete smoke nicotine, a THC vape pen with a pure cannabis joint in it, for recreational circumstances on 1 December 2023. HG, also noted in his witness statement that as a close friend to the Athlete, he observed the Athlete consume a large amount of pure cannabis, daily and casually in November 2023.

73. The FEI opened their questions to HG, and he confirmed the following:

- That he is a veterinarian who has worked with the Athlete's family for over 10 years and travelled to Uruguay one week before the Event, in order to prepare for the event;
- That a couple days before the Event, they hosted a barbeque at the rented accommodation, and HG was aware that the Athlete was using cannabis more than usual. During that barbeque HG confirmed that the Athlete arrived with a THC vape pen and some joints of marijuana, and that was the last time the Athlete used those substances in December;
- That he saw the Athlete smoking the vape pen and the cannabis joint on that night;
- That he did not spend every single minute with the Athlete at the Event, as he was there to work as a veterinarian despite sharing accommodation, and the Athlete had a different schedule and commitments;
- The FEI also asked HG for more information about the medical help that the Athlete was seeking and whether he was in hospital, and HG stated that he was not in hospital but sought psychological help not solely related to smoking cannabis. HG furthered that cannabis was only a minor part of the problem for the Athlete as he had other psychological and family relationship issues at that time also.

74. The Athlete's Legal Counsel also questioned HG and he confirmed the following:

- HG stated that he had been working with the athlete for over 10 years and knew him since he was a child. HG also confirmed that the Athlete always wanted to compete at a high level, was a top-level Athlete who was conscious of his health and would not usually smoke a lot of cannabis;
- HG stated that the Athlete regretted what happened and after this incident he sought medical help to stop any habitual smoking of cannabis. He stated that the athlete was not smoking cannabis anymore.
- HG stated that he provided anti-doping and medication control education

training to his clients, especially in relation to horses, educational seminars to participants via the national equestrian federation.

c) *FEI's first witness: Professor Dr. (h.c.) Marilyn A. Huestis ("MH").*

75. The FEI opened examination on MH who confirmed that no amendments were required in respect of her professional report (the "Report") submitted on 19 December 2022 and she also confirmed the following:

- MH confirmed all her qualifications and expertise in regard to cannabis research and she had over 40 years' experience in this area in addition to numerous degrees and doctorates from various universities and medical faculties. She also confirmed had over 23 years' experience working as senior investigator and Chief, Chemistry and Drug Metabolism Section, IRP, National Institute on Drug Abuse, National Institutes of Health, and carried out controlled drug administration studies;
- MH stated that she had conducted many controlled administration studies of cannabis and studied the excretion of the primary metabolite in cannabis, (carboxy THC) which was the metabolite measured in athletes' urine for the World Anti-Doping Agency ("WADA"). MH noted that they have followed these excretion studies in her laboratory (where they would dose individuals, in the closed research unit and collect every urine sample produced) so they have more than 15,000 data points to examine the excretion of carboxy THC in urine.
- MH confirmed that the latter data points, provided good information to assess daily use versus less than daily use of cannabis. The idea, she noted was that they could publish this data to educate people on excretion and the pharmacodynamic effects of cannabis.

76. MH also confirmed that on a final investigation of the particulars in these proceedings, the following:

- MH referred to the psychiatric report of Dr Daniel Martins de Barros and Dr. Hercílio Pereira de Oliveira Jr. re the Athlete's case and that she had a major issue with content in this report wherein it stated:

"The complex relationship between these variables make it difficult to establish a linear relationship between the time lapse since the last use and THC levels detectable in the urine samples. Blood samples could provide more concrete evidences about this, such as recommended by the Centers for Disease Control (CDC): "Only blood-sample measurements are likely to correlate with a person's

degree of exposure; attempts to correlate urine concentration with impairment or time of dose are complicated by variations in individual metabolism, metabolite accumulation in the chronic user, and urine volume changes due to diet, exercise, and age. Therefore, a positive result by the urine cannabinoids test indicates only the likelihood of prior use. Smoking a single marijuana cigarette produces THC metabolites that are detectable for several days with the cannabinoids assay".⁸ Considering the criteria used by WADA to ban substances during a competition and to punish athletes who have consumed them during a certain period when they are forbidden, the CDC document states very clearly: "the urine cannabinoids test result alone cannot indicate performance impairment or assess the degree of risk associated with the person's continuing to perform tasks. If a history of marijuana use is the major reason for screening, the urine test for cannabinoids should be able to detect prior use for up to 2 weeks in the casual user and possibly longer in the chronic user".

- MH disagreed with the position the Athlete's expert set out above, regarding cannabis and its ability to affect/enhance an athlete's performance and stated that this theory was unsupported. Furthermore, MH noted that in respect of the excretion of delta 9 in occasional users versus regular/daily users, this would lead to different excretion timelines, as THC gets stored in the fat and would be excreted more slowly so that despite the Athlete's contention he was occasional cannabis user, but the evidence did not support that in her opinion;
- MH also noted that a 13-day half-life was mentioned in this Athlete's expert report and that she found no support for a 13-day half-life in chronic frequent users and could produce thousands of data points and references to refute this.
- MH also noted that despite the Athlete's confirmation that he smoked delta 8-carboxy-THC, no delta 8-carboxy-THC was found in the Athlete's urine and furthermore that the concentration present at the time of 987 mg/nL, did not align to any of the people in her studies 8 hours after using;
- MH also noted that chronic frequent users would release a small amount all the time which resulted in a very long detection time, albeit it was a very steep excretion slope initially for both chronic and infrequent users.

77. The Athlete had no questions for MH. However, the Tribunal accepted that Counsel for the Athlete may submit his closing submission for the oral hearing in writing within 48 hours from the conclusion of the hearing.

d) FEI's closing submissions at hearing:

78. The FEI stated while this case may seem scientifically complex, in reality the case was very straightforward due to the following factors:

- The Athlete tested for a very high concentration of carboxy-THC, which was a prohibited substance according to WADA prohibited list and a violation of Article 2.1 ADRHAs;
- That no departures occurred in respect of the standard sampling, testing, and custody protocols;
- That the position of the FEI was clearly presented in their written submissions presented to the Parties to date;
- That the Athlete initially stated that he only smoked the vape pen so the FEI conducted additional analysis and no scientific indication of delta 8 was detected, after this analysis the Athlete admitted to use of cannabis as the reason the finding for THC in the urine;
- That the concentration of carboxy-THC was almost five times the WADA threshold so therefore the FEI could exclude the scenarios presented by the Athlete and his Counsel based on the levels of carboxy THC;
- That the data presented showed that it was more likely than not that the Athlete used the substance in competition as opposed to out of competition. However, the context of his use cannot be established unless the Athlete provided more details;
- The FEI also noted that the Athlete stated that carboxy-THC neither improved or impaired an Athlete's sporting performance, but this was not substantiated by any evidence and remained a controversial issue in the global anti-doping sports community.

e) Athlete's closing submissions as agreed in writing:

79. As stated at paragraph 77 of this Decision, the Tribunal accepted that Counsel for the Athlete could submit his closing submission in respect of the oral hearing phase of this case, and these submissions are summarised as follows:

- That the Athlete consumed cannabis but explained that he only used it on 1 December 2021, which constituted an out-of-competition abuse;
- That he consumed cannabis for recreational purposes, due to a difficult period in his personal life and stressed his regret at the consumption of said substance;
- That he did not know that the substance would not have been completely

- excreted from his body before the beginning of the Event;
- That the Athlete presented a Report explaining that it was impossible to determine the precise or even the approximate moment when the substance was consumed by analysing the amount of its concentration in his system;
 - that the Athlete admitted he smoked a nicotine and THC vape pen for, recreational circumstances, on 1 December 2021 but asserted that said substances did not serve to increase or decrease his sports performance or provide any competitive advantage;
 - that notwithstanding that the Athlete admitted that he smoked a vape pen, the Athlete was not in a position to confirm what kind of vape pen he bought;
 - that the metabolising process of THC was linear, and its speed was directly linked to strong variable factors such as time taken and the individual organism that ingested the substance, which meant that it was impossible to determine the precise or even the approximate moment when the substance was consumed by analysing the amount of its concentration in the body at the Sample;
 - that it was evident if the recommended sanctions were to be applied, the Athlete would be punished based on pure speculation and contrary to the medical evidence presented;
 - That the FEI admitted it was not sure of its own allegations in its Response dated 23 January 2023, wherein they stated that “unfortunately, at this stage the FEI cannot be certain whether the use of Cannabis that gave rise to the AAF in your sample which took place In or Out-of-Competition and whether it was related to your sport performance”;
 - that the Athlete did not know or could not reasonably have known even with the exercise of utmost caution, that his body contained a Prohibited Substance going into competition would led to a scenario of “No Fault or Negligence” on his part;¹⁴
 - That the Athlete’s conduct must be encompassed as within the scope of “No Fault or Negligence” and, therefore, no sanctions should be applied (Article 10.1.2 and Article 10.5 of ADRHA);
 - Or alternatively, that the Athlete’s conduct must be acknowledged as included within the scope of “No Significant Fault or Negligence”, thus, the

¹⁴ The term “No Fault or Negligence” is defined in the Appendix to ADRHA as follows: “the Athletes or other Persons’ establishing that they did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule”.

Athlete should benefit from a special sanctioning system for the Substances of Abuse and the period of Ineligibility must be three months (Article 10.2.4.1 of the ADRHA);

- Finally, that the period of Ineligibility must commence from the date of the Sample collection (5 December 2021).

VI. Jurisdiction:

80. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 159 of the GRs, Articles 8.1.1.1 and 8.1.2.1 of the ADRHAs, as well as Article 18 of the IRs. The Athlete is a member of the BRA-NF, and as such is bound by the ADRHAs. The jurisdiction of the Tribunal is undisputed.

VII. Legal Discussion:

81. 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.

i. General considerations

a) The Burden of Proof

82. Pursuant to Article 3.1 of the ADRHAs, the FEI bears the burden of establishing the ADRV. However, if the FEI can establish that an ADRV has been committed, the Athlete bears the burden of establishing the specified facts or circumstances on which he relies.

83. As confirmed by various CAS and FEI panels, the Athlete has to present facts substantiated with concrete evidence. Speculation or theoretical possibilities are not sufficient. Furthermore, it was suggested by various CAS panels that the 51% threshold was understood as meaning that panels should separately compare each alternative scenario with the scenario invoked by the Athlete. The Athlete's scenario has to reach a 51% threshold for it to be successful.¹⁵

¹⁵ See for example Viret, M., "Evidence in Anti-Doping at the Intersection of Science & Law", Asser International Sports Law Series, Springer 2016, (pp. 521-538), as well as CAS 2011/A/2234 & 2386, UCI v. Contador & RFEC, and CAS 2010/A/2230, IWF v. UKAD & Gibbs. See for example also FEI Tribunal Decision 2017/BS32 SAURA DE FONDCOMBE dated 24 February 2020.

b) The Standard of Proof

84. According to Article 3.1 of the ADRHAs different standards of proof apply in doping proceedings: on the one hand, “[t]he standard of proof shall be whether the FEI has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made.” On the other hand, the PR’s “standard of proof shall be by a balance of probability”.

ii. Preliminary matter – the chain of custody

85. As described above, the Athlete initially questioned the chain of custody of his samples. The FEI explained the different documents that the Athlete had been provided with, which were in line with the ADRHAs and applicable international standards.

86. During the hearing, the Athlete acknowledged that he received the necessary documents proving the chain of custody and did not raise any objections with respect to them. Hence, the Athlete’s initial arguments are deemed as withdrawn and the Tribunal is not required to rule on this matter.

iii. Did the Athlete commit an anti-doping rule violation?

87. The Athlete’s sample confirmed the presence of Carboxy-THC (metabolite of $\Delta 9$ THC), a substance listed in Class S.8 Cannabinoids under the 2021 Prohibited List. This substance falls under the category of Substance of Abuse and is considered a Specified Substance prohibited In-Competition. The estimated concentration in the sample was of 987 ng/mL.

88. As set forth in Article 2.1 of the ADRHAs, sufficient proof of an anti-doping rule violation is established by the presence of a Prohibited Substance or its Metabolites or Markers in the Athlete’s A Sample.

89. The Tribunal is satisfied that the report relating to the A-sample reflects that the analytical tests were performed in an acceptable manner and that the findings of the Laboratory are accurate. Therefore, the Tribunal is further satisfied that the test results evidence the presence of Carboxy-THC (metabolite of $\Delta 9$ THC) in the A Sample taken from the Athlete at the Event.

90. In addition, despite being informed of his right to request the analysis of the B Sample, the Athlete decided not to request this.

91. As a result, in accordance with Article 2.1.2 of the ADRHAs, the FEI has established that the Athlete committed an ADRV.

iv. If so, can the standard period of ineligibility be eliminated or reduced?

92. Pursuant to Article 10.2.2 of the ADRHAs, the period of ineligibility for an athlete with no previous doping offences who violates Article 2.1 and/or 2.2 of the ADRHAs and whose violation involves a Specified Substance is subject to a period of ineligibility of two years¹⁶ unless the Athlete is able to persuade the Tribunal that the period can be eliminated or reduced.

93. To do this, the rules specify that the Athlete must establish to the FEI Tribunal's satisfaction – on a balance of probabilities – that the criteria set out in the ADRHAs for *Substance of Abuse* (Article 10.2.4.1 of the ADRHAs), *No Fault or Negligence* (Article 10.5 of the ADRHAs), or *No Significant Fault or Negligence* (Article 10.6.1.1 of the ADRHAs) apply. In order for Articles 10.5 and 10.6 of the ADRHAs to be applicable, the Athlete must establish as a threshold requirement how the Prohibited Substances entered his system.

94. If the Athlete fails to discharge his burden of proof, the standard two-year period of ineligibility under Article 10.2.2 of the ADRHAs applies.

a) Can Article 10.2.4.1 ADRHAs be applied?

95. Article 10.2.4.1 of the ADRHAs establishes:

“Notwithstanding any other provision in Article 10.2, where the anti-doping rule violation involves a Substance of Abuse:

If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, then the period of Ineligibility shall be three (3) months Ineligibility.

In addition, the period of Ineligibility calculated under this Article 10.2.4.1 may be reduced to one (1) month if the Athlete or other Person satisfactorily completes a Substance of Abuse treatment program approved by the FEI. The period of Ineligibility established in this Article 10.2.4.1 is not subject to any reduction based on any provision in Article 10.6.”

¹⁶ This period of ineligibility can be increased to four years if the FEI can establish that an anti-doping rule violation was intentional (Article 10.2.1.2 ADRHA). However, since the FEI did not argue this, such scenario is discarded.

96. It is undisputed that Carboxy-THC falls within the concept of Substances of Abuse.
97. The Tribunal must therefore analyse if the Athlete has proven the two other cumulative conditions:
- a. Establishing that any ingestion or use occurred Out-of-Competition; and
 - b. Establishing that any ingestion or use was unrelated to sport performance.
98. If one of these two criteria is not demonstrated, Article 10.2.4.1 of the ADRHAs cannot be applied.
99. Concerning the first criterion, it is recalled that out of competition is defined as “[a]ny period which is not In-Competition.”
100. In turn, *In-Competition* is defined by the FEI as:
- “The period commencing one (1) hour before the beginning of the first Horse inspection the day before a Competition in which the Athlete/rider is scheduled to participate through to the end of the last Competition at the Event for that Athlete/rider or the sample collection process related to such Competition.”*
101. It is undisputed between the Parties that the Athlete participated in two competitions during the Event: CEI2*120 on 4 December 2021 and CEI3*160 on 5 December 2021. The first horse inspection for the CEI2*120 Competition started on 3 December 2021 at 14:00 and therefore the In-Competition period in the Athlete’s case started on 3 December 2021 at 13:00.
102. Therefore, the Tribunal must decide if the factual and scientific evidence submitted by the Parties supports that it is more likely than not that the Athlete ingested or used Carboxy-THC (metabolite of Δ^9 THC) before 3 December 2021 at 13:00 (i.e., out-of-competition) rather than after (i.e., in-competition).
103. At first, the Athlete asserted that he was not a regular user of Cannabis and that he smoked it occasionally (except during November 2021, when he would smoke more frequently) without the intention of improving his sport performance. On 1 December 2021, he did smoke a whole nicotine and THC vape pen, under recreational circumstances. Based on a psychiatric report of Doctors Martins de Barros and Pereira de Oliveira Jr., the Athlete argued that the metabolization of THC was not linear and highly depended on each

person's organism. Therefore, he argued that he took the prohibited substance out of competition.

104. In view of the Athlete's arguments, the FEI sought an opinion from an independent scientific expert. Following the expert's recommendations, the FEI requested the Laboratory for Doping Analysis – German Sports University Cologne (the "Laboratory") to re-test the Athlete's Sample for the presence of delta 9 THC (natural THC found in Cannabis) and delta 8 THC (a synthetic isomer of the THC). The results of the re-test confirmed the presence of delta 9 THC with a roughly estimated concentration of approx. 4 ng/mL, while no delta 8 THC could be detected.
105. In reply to the FEI's submission (and to the report of its expert), the Athlete filed witness statements of two friends who confirmed that on 1 December 2021 he also smoked a pure Cannabis joint. He then argued that the high concentration of Carboxy-THC in his Sample must be the result of his Cannabis consumption (both THC vape pen and Cannabis joint) on 1 December 2022.
106. At that point, the FEI (relying on the expert opinion of Prof. Marilyn A. Huestis) charged the Athlete who, in his defence submission, argued that (i) given the period between the first analysis and the re-testing of his sample (to discern between delta 8 THC and delta 9 THC), it was possible that the traces of the delta 8 THC would have "fainted" and (ii) he insisted that the metabolizing process of THC shall not be considered linear and varies from person to person.
107. After having carefully considered the Athlete's arguments and evidence, the Tribunal considers that the Athlete has not met his burden to establish that he ingested Carboxy-THC out of competition.
108. The Tribunal finds that the Athlete's explanations lack overall credibility. In particular, the Tribunal recalls that upon being confronted with the results of the re-testing, the Athlete changed his version of the events by arguing, for the first time, that in addition to a vape pen he had also smoked pure Cannabis that same evening.
109. In addition, the report submitted by the Athlete was rebutted in detail by Prof. Huestis without any cogent opposition from the Athlete. In particular, the Tribunal recalls that a study on the administration of cannabis revealed that the only similar result to the one at stake (i.e., estimated concentration of approximately 987 ng/mL delta 9 THC after approximately 88 hours of the last intake) was reported from a frequent cannabis user that *"reported smoking 20 blunts per day for 18 years"*.

110. Another study cited in the psychological report submitted by the Athlete also revealed, in Prof. Huestis' words, *"that none of the 33 chronic frequent cannabis users had 9-carboxy-THC concentrations close to 987 ng/mL 88 h after last use."*
111. Based on the scientific evidence on file, the Tribunal does not find it likely that the Athlete's account of the facts matches with the amount of Carboxy-THC found in his urine sample. In other words, the Tribunal is therefore convinced that, regardless of what the source of the Carboxy-THC was in the Athlete's A-Sample, it could not have been used out of competition, especially when it has been established, based on the Athlete's own submissions, that he is not a chronic frequent cannabis user.
112. As a result, the Tribunal considers that the Athlete has failed to prove, on a balance of probabilities, that the ingestion of the prohibited substance found in his urine sample occurred out of competition.
113. Since the first cumulative criterion of Article 10.2.4.1 of the ADRHAs has not been met, the Tribunal can dismiss the application of this provision without analysing the remaining criterion on the relation or not with sport performance.

b) Can Article 10.5 ADRHAs be applied?

114. The Athlete has argued that the evidence on file and his arguments according to which he *"did not know or could not reasonably have known even with the exercise of utmost caution, that his body would contain a Prohibited Substance going into competition lead the case to the assumption of "No Fault or Negligence"*.

Given that the Athlete did not act with fault or negligence and that the substance in question does not enhance sports performance, no sanctions should be applied, in accordance with the Article 10.1.2 and Article 10.5 of ADRHA".

115. The Tribunal therefore evaluates if this provision can be applied in this case. Before this, it is necessary to recall how the regulations define the concept of No Fault or Negligence:

"The Athletes or other Persons' establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance

entered the Athlete's system."

116. The Tribunal identifies the following cumulative criteria that are applicable to the Athlete as an international-level athlete:
- a. Establishing that he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had used or been administered the Prohibited Substance; and
 - b. Establishing how the Prohibited Substance entered his system.
117. Since these criteria must be met cumulatively, the Athlete must persuade the Tribunal that both elements have been demonstrated. This also means that if one criterion is not demonstrated on a balance of probabilities, then Article 10.5 ADRHAs cannot be applied.
118. The Tribunal decides to analyse first the second criterion: if the Athlete has established how the Carboxy-THC found in his urine sample entered his system.
119. According to CAS jurisprudence:

To establish the origin of the prohibited substance, CAS and other cases make clear that it is not sufficient for an athlete merely to protest their innocence and suggest that the substance must have entered his or her body inadvertently from some supplement, medicine or other product which the athlete was taking at the relevant time. Rather, an athlete must adduce concrete evidence to demonstrate that a particular supplement, medication or other product that the athlete took contained the substance in question."¹⁷

120. As concluded above based on the expert report of Prof. Huestis, the factual scenario put forward by the Athlete does not match with the scientific evidence. There is an extremely low scientific probability that the Athlete's scenario could explain the AAF.
121. Therefore, in the absence of any reliable evidence put forth by the Athlete, the Tribunal is not satisfied that he has established, on a balance of probabilities, that the source of the Carboxy-THC was a THC vape pen and/or a Cannabis joint smoked on 1 December 2021.
122. Since the source of the Prohibited Substance has not been established by the Athlete, he has failed to prove one of the two cumulative criteria that are necessary for Article 10.5 ADRHAs to be applied. Therefore, the Tribunal dismisses the application of this provision

¹⁷ CAS 2015/A/4377, paragraph 52 and cases referred to in paragraphs 53 to 56.

without having to analyse the other criterion.

c) Can Article 10.6.1.1 ADRHAs be applied?

123. Finally, the Tribunal must address the submission of the Athlete that has alleged his *“conduct must be acknowledged as encompassed within the scope of “No Significant Fault or Negligence”.*”

124. Even though the Athlete’s requests stemming from *No Significant Fault or Negligence* referred only to applying Article 10.2.4.1 of the ADRHAs, the Tribunal considers important to explain why the alternative option contained in Article 10.6.1.1 ADRHAs can also be rejected in this case.

125. The concept of *No Significant Fault or Negligence* is defined as follows:

“The Athlete or other Person’s establishing that any 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 anti-doping rule violation. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete’s system.”

126. As in Article 10.5, the Tribunal identifies two cumulative criteria that must be demonstrated by the Athlete, the second one being the need to establish how the Prohibited Substance entered his system.

127. For the reasons explained above, the Athlete has failed to establish how 987 ng/mL of Carboxy-THC (metabolite of $\Delta 9$ THC) entered his system. Therefore, the standard two-year sanction contained in Article 10.2.2 ADRHAs cannot be reduced either based on Article 10.6.1.1 ADRHAs.

VIII. Sanctions:

128. Having established that the Athlete has breached Articles 2.1 and 2.2 of the ADRHAs and based on the previous conclusions on the impossibility to eliminate or reduce of the standard period of ineligibility, the Tribunal decides to impose a period of ineligibility of two (2) years on the Athlete based on Article 10.2.2 of the ADRHAs.

129. The Athlete has requested – without any further explanation – that the period of ineligibility must start on the date of Sample collection.

130. As a general rule, *"the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility"* (Article 10.13 of the ADRHAs).
131. Article 10.13.1 of the ADRHAs allows backdating the commencement of the ineligibility period is the *"Athlete [...] can establish that such delays are not attributable to [him]"*. However, the Athlete has not even claimed that there were any delays (even less not attributable to him). Therefore, this exception to the general rule cannot be applied and the Athlete's request in this regard must be dismissed.
132. Since the Athlete has not been provisionally suspended during these proceedings (Article 10.13.2 of the ADRHAs), his period of ineligibility shall start on the day of notification of this decision.
133. In addition, pursuant to Articles 9 and 10.1 of the ADRHAs, the Tribunal disqualifies all the results of the Athlete obtained in the Event, with the consequent forfeiture of all medals, points, prize money, etc. that he may have won.
134. Furthermore, in relation to Article 10.10 of the ADRHAs and the "disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation", the Tribunal notes the "automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes."
135. Taking into account the latter provision, the Tribunal acknowledges the delayed passage of time between the date of Sample collection at the Event – 5 December 2021 until the case was submitted to the Tribunal - 23 January 2023 and that such delay requires additional fairness in respect of the disqualification sanction. In particular, the Tribunal imposes a reduced sanction in respect of the Disqualification of the results period. In this regard the Tribunal confirms automatic Disqualification of the results in the Competition but that no disqualification is imposed from the conclusion of the Event until the hearing dated 15 May 2023, with Disqualification of results thereafter.
136. Article 10.12 of the ADRHAs enables the Tribunal to impose, at its discretion and subject to the principle of proportionality, the following financial consequences on the Athlete:

- a. Have the FEI recover from the Athlete or other Person costs associated with the anti-doping rule violation; and/or
- b. Fine the Athlete or other Person in an amount up to 15'000 Swiss Francs, and in accordance with the FEI Guidelines for Fines and Contributions towards Legal Costs.

137. In the present case, it was the Athlete's personal duty to ensure that no Prohibited Substance was present in his body during the Event. Moreover, considering the degree of the Athlete's fault, in terms of the lack of a reasonable explanation concerning the source of the Prohibited Substance and the considerably high amount of Carboxy-THC (metabolite of Δ^9 THC) found in his urine Sample, the Tribunal is satisfied that he did not abide by his duty of care and, at the very least, the Athlete engaged in conduct which he knew carried a significant risk. Therefore, the Tribunal rules that a fine of CHF 7,500 is appropriate. In addition, given the complexity of this case and the requirement for an oral hearing and the exchange of post-hearing briefs, the Tribunal orders the Athlete to contribute to the FEI's costs in the amount of CHF 5,000. This amount is also in line with the FEI Guidelines for Fines and Contributions Towards Legal Costs.

IX. Terms of Decision:

1. As a result, the Tribunal rules that the FEI has established to its comfortable satisfaction that Mr Pedro Marino has committed an anti-doping rule violation. Accordingly, the Tribunal confirms the following terms of this Decision:
 - a. Mr Pedro Marino has infringed Articles 2.1 and 2.2 of the ADRHAs.
 - b. Mr Pedro Marino shall be suspended for a period of two (2) years as of notification of the present decision in line with Article 10.14 of the ADRHAs. The period of the ineligibility will be effective as from the day of notification of this decision.
 - c. All the competitive results of Mr Pedro Marino obtained at the Event and from the date of the hearing onwards (15 May 2023) are disqualified with the consequent forfeiture of any medals, points and prizes that he may have earned during that period. Any competitive results from the conclusion of the Event up until the date of the hearing remain valid.
 - d. Mr Pedro Marino is imposed a fine of thousand Swiss Francs (CHF 7,500).
 - e. Mr Pedro Marino shall contribute thousand Swiss Francs (CHF 5,000) for costs that the FEI has incurred in these proceedings.
2. This decision is subject to appeal in accordance with Article 13.2 of the ADRHAs. An appeal against this Decision may be brought by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.
3. This decision shall be published in accordance with Article 14.3 of the ADRHAs.

FOR THE TRIBUNAL

A handwritten signature in black ink that reads 'B. Ward'.

Mr Brian Ward, Panel Chair