

DECISION of the FEI TRIBUNAL

dated 25 October 2023

in the matter of

Mr Ayedh AL MUGHAMER (PR; Ref. C23-0041)

(FEI Case number: FEI 2023/RF01 – TALAQAH)

FEI Tribunal Hearing Panel: Ms Constance Popineau (FRA)

FEI Tribunal Reference: C23-0041 [FEI 2023/RF01 – Ayedh AL MUGHAMER]

Person Responsible/ID/NF: Ayedh AL MUGHAMER /10174065/KSA

Trainer/ID/NF: Amjad ALKHATMY /10187063/KSA

Horse/Passport/NF: TALAQAH /108BA98/KSA

Event/ID: CEI1\* 100 Riyadh (KSA), 10-11/02/2023, 2023\_CI\_0342\_E\_S\_01\_01

Date of Violation: 11.02.2023

Rule Violation: 2.3 Evading, Refusing or Failing to Submit to Sample Collection

## I. Introduction

1. This case pertains to FEI Case with reference 2023/RF01 TALAQAH. In the present matter, the FEI notified Mr Ayedh AL MUGHAMER that a violation of Article 2.3 of the Equine Anti-Doping Rules (“**the EAD Rules**”) – Evading, Refusing or Failing to Submit to Sample Collection – had occurred. The FEI notified Mr AL MUGHAMER of the respective charges in his capacity as the Person Responsible (the “**PR**”).
2. **Applicable Rules Provisions:**
  - Statutes 24<sup>th</sup> edition, effective 17 November 2021 (“**Statutes**”).
  - General Regulations, 24<sup>th</sup> edition, 1 January 2020, updates effective 4 April 2023 (“**GRs**”).
  - Internal Regulations of the FEI Tribunal, 3<sup>rd</sup> Edition, 2 March 2018 (“**IRs**”).
  - FEI’s Equine Anti-Doping and Controlled Medication Rules, 3<sup>rd</sup> Edition, effective 1 January 2021, updates effective 1 January 2023 (“**EADCM Rules**”).
  - FEI Veterinary Regulations, 15<sup>th</sup> Edition, effective 1 January 2023 (“**FEI VRs**”).
  - The World Anti-Doping Code - International Standard – Prohibited List – effective 1 January 2023 (“**WADA Prohibited List**”).

## II. Factual background

3. Mr Ayedh AL MUGHAMER (FEI ID 10174065), the Person Responsible, competed with the Horse TALAQAH (the “**Horse**”), at the CEI1\* 100 in Riyadh, Kingdom of Saudi Arabia, on 10-11 February 2023 (the “**Event**”).
4. The Fédération Équestre Internationale (the “**FEI**” together with the PR, the “**Parties**”), is the IOC-recognised international governing body for equestrian sport. The FEI is the governing body of the FEI equestrian disciplines (Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, and Para-Equestrian).
5. The Horse was selected for a mandatory in-competition doping control test during the Event after the failed hyposensitivity examination, however, the PR

refused testing and escaped with the Horse, which prompted these proceedings, under art. 2.3 of the EAD Rules, i.e. *Evading, Refusing or Failing to Submit to Sample Collection*.

### III. Procedural background

6. By way of a notification letter dated 27 March 2023, the FEI informed the PR of a possible violation of Article 2.3 (*Evading, Refusing or Failing to Submit to Sample Collection*) of the EAD Rules, but did not provisionally suspend the PR.
7. On 1 June 2023, after several reminders, the PR submitted his position, in a brief email sent to the FEI via his National Federation, the KSA-NF.
8. By way of a Notice of Charge dated 5 June 2023, the FEI formally notified the PR, through his National Federation, of the alleged EAD Rule Violation. The PR was given a deadline of 20 days to either admit the asserted violation and accept the proposed Consequences or challenge in writing the asserted violation and/or the proposed Consequences.
9. The PR did not submit any additional position in the context of the FEI proceedings.
10. Therefore, by email dated 27 July 2023, the FEI submitted the case files to the Tribunal for adjudication. The PR's NF, the KSA-NF, was copied to the FEI's correspondence.
11. On 14 August 2023, the Tribunal Chair informed the Parties of the appointment of a one-person hearing panel to decide this case. The Parties were asked to provide any objections to the constitution of the hearing panel by 17 August 2023. Furthermore, the Tribunal Chair granted the PR with the opportunity to respond to the FEI's allegations, by providing a statement of defence and any supporting evidence by 4 September 2023. The Tribunal Chair further informed the PR that should they fail to respond within the deadline, the Tribunal hearing panel would decide this case using the file material in its possession. Finally, the Tribunal Chair informed the Parties of their right to request an oral hearing.
12. Within the prescribed deadline, no party objected to the constitution of the Panel.
13. The PR further did not submit any statement of defence within the prescribed deadline.

14. Neither party requested a hearing.

#### IV. The Parties' Submissions:

##### A. Submissions by the PR

15. The sole position submitted by the PR in the context of the FEI proceedings was the following:

*"Re: CEI1\* 100km – Riyadh (KSA) – 11 February 2023 – I objected to the committee's decision regarding the fine and suspension, because the committee present at the race did not inform me that a blood sample had been taken from the horse. They only said exclusion because the horse did not sense the sensitivity device, and the passport was received and the chip was handed over, and the committee did not inform me of the analysis."*

16. Furthermore, the PR did not submit any position in the context of the proceedings in front of the Tribunal.

##### B. Submissions by the FEI:

17. On 20 July 2023, the FEI submitted, together with the case file, its Response to the Tribunal.

18. The FEI submitted that:

18.1 Article 2.3.1 of the EAD Rules provides that *Evading Sample collection; or refusing or failing to submit to Sample collection without compelling justification after Notification (in accordance with the FEI Veterinary Regulations) or to comply with all Sampling procedure requirements including signing the Sampling form or otherwise evading Sample collection.* Furthermore, pursuant to Art. 2.3.2 of the EAD Rules, *It is each Person Responsible's personal duty to ensure that if the Horse with/on which they competed or will compete is selected for Sampling and a notification of Sampling in accordance with the FEI Veterinary Regulations has taken place, such Horse is submitted to Sample collection and that all Sampling procedure requirements are met.*

18.2 According to Article 118.3 of the GRs, the Person Responsible (PR) shall be the Athlete who rides, vaults or drives the Horse during an Event, but the Owner and other Support Personnel including but not limited to grooms

and veterinarians may be regarded as additional Persons Responsible if they are present at the Event or have made a relevant Decision about the Horse.

- 18.3 The rules conclude that the rider of the Horse is the Person Responsible (PR) for the Horse who remains the Person Responsible strictly liable and responsible for the Horse(s) at all times. The PR is therefore responsible for bringing the Horse to sample collection.
- 18.4 The confirmation of Evading, Refusing or Failing to Submit to Sample Collection gives rise to an Anti-Doping Rule Violation under the FEI Equine Anti-Doping and Controlled Medication Regulations and constitutes a violation of Article 2.3 of the EAD Rules.
- 18.5 The rules are clear, it is each PR's personal duty to ensure that if the horse with/on which he/she competed is selected for Sampling and a notification of Sampling in accordance with the FEI Veterinary Regulations has taken place, such horse is submitted to Sample collection. Failing of such act constitutes a clear violation of Article 2.3 of the EAD Rules and entails that respective sanctions shall be imposed on the PR.
- 18.6 The PR is also liable by way of Art. 1094 par. 2 of the FEI VRs, which state that *PRs are strictly liable and responsible for their Horse(s) at all times. PRs and their Horse(s) may be subject to inspection for compliance with all applicable FEI rules and regulations by FEI Officials at any time during an Event. In this respect, PRs must ensure that they and their Horse(s) comply with all aspects of these VRs, and EADCMRs including but not limited to [...] I) all provisions related to the implementation of the EADCMRs and Elective Testing (art. 1095 VRs), the PR being responsible for the Horse at all times (art. 1066 par. 6 VRs).*
- 18.7 Pursuant to art. 1066 par. 7 of the VRs, *Evading, refusing or failing to submit to sample collection without compelling justification is a violation of the EADCMRs Article 2.3.*
- 18.8 Art. 1069 of the VRs provide for the procedure to be followed in this regard:
- [...]

*3. From the moment of notification, the Horse must be chaperoned by an FEI Official until it has been taken to the Testing Veterinarian or VD. The PR may cool down their Horse between notification and presenting their Horse to the*

*Testing Veterinarian or VD.*

*4. Following notification, the PR or a member of their Support Personnel must accompany the Horse to the Testing Veterinarian or VD and witness the sampling procedure.*

*5. The Testing Veterinarian or VD may appoint an FEI Official for any or all of the following:*

*a) to notify the PR or a member of their Support Personnel that the Horse has been selected for sampling; and/or*

*b) to chaperone the Horse to the Testing Veterinarian or VD.'*

18.9 Finally, the Annex VII to the VRs details the process to be followed in case of a Hyposensitivity Control System Examination:

*14. If a Horse fails the Examination, the member of the GJ attending the Examination, upon the recommendation of the Hyposensitivity Control System team, shall (i) Disqualify the Horse; and (ii) require that the Horse be submitted to EADCMP sampling (urine and/or blood) (if EADCMP sampling is possible on site). Any Horse that fails the Examination may not compete in any National Event(s) or FEI Event(s) for a Mandatory Out of Competition Period of 28 days. This Mandatory Out of Competition Period is in addition to the standard Mandatory Out of Competition Period that applies pursuant to Article 839.1 of the FEI Endurance Rules."*

18.10 Article 3.1 of the EAD Rules makes it the FEI's burden to establish all of the elements of the EAD Rule violation charged, to the comfortable satisfaction of the FEI Tribunal. The elements of an Article 2.3 violation are straightforward. "2.3.4 *It is not necessary to demonstrate intent, fault, negligence or knowledge in relation to any delegation relating to the Sampling process or to the acts of a relevant third party in order to establish an EAD Rule violation under this Article 2.3.*" Instead it is a 'strict liability' offence, established simply by Evading, Refusing or Failing to Submit the Horse to Sample Collection.

18.11 The FEI consider having established that there was a violation of Art. 2.3 EADR, since the PR refused to have his Horse tested and instead escaped Sample Collection, and ultimately the Horse was not submitted for testing and no sample was collected from the Horse, as confirmed by the FEI Officials.

18.12 The FEI's Officials' reports were the following:

*"The PR insisted on being re-tested after protocol (for hyposensitivity testing) was followed (tested 3x). He then ran away from the steward accompanying him to EADCMP. He refused EADCMP testing."*

*"One horse Talagah-( FEI ID 108BA98) Rider Ayedh Al Mughamer (FEI ID 10174065) was too fractious test at VG 1 and 2 and could not be approached safely. At VG 3 we decided he must be tested. The groom restrained by applying a hand lip twitch. We could then safely apply the boots and actuators. The groom released his hand from the horse's lip, so the horse was not restrained in any way during the test. After being informed that his horse had abnormal findings (in the hyposensitivity testing) in his Left Fore Leg and was disqualified due to 3 measurements being above 20 Newtons, the PR was angry and kept requesting further testing, which we politely refused. He was accompanied by a Steward and a National judge for EADMCP but refused testing and escaped with his horse. The President of the GJ, was very helpful and supportive at the time of the DQ and throughout the ride. Due to the time taken with this rider and his response we were limited in the number of horses we were able to test at this Vet Gate. Copy of Disqualification form attached to this Report."*

18.13 The FEI is of the opinion that the Reports clearly established that:

- The PR was notified of his Horse's selection for a Doping Control;
- Both the PR and the Horse were accompanied by the Steward and a National Judge to the Sample Collection;
- The PR was informed by the Veterinarians that he had to submit his Horse to Sample Collection after a positive Hyposensitivity Examination;
- The Ground Jury informed the PR of the consequences of failing to submit the Horse to Sample Collection;
- Nonetheless, the PR disappeared with his Horse, which resulted in the impossibility to conduct an in-competition testing on the Horse;

18.14 The FEI has a zero-tolerance for behaviour such as Evading, Refusing or Failing to Submit the Horse to Sample Collection, which is considered as a serious offence from a registered FEI Athlete. Unless compelling justification is provided, such behaviour should be seen as intentional.

- 18.15 In the present case, the PR was well aware of his responsibilities, and was duly informed, by the FEI Officials present on site, of the mandatory steps he was supposed to be undertaking. Despite those clear indications – the PR was also accompanied with the Horse by the Steward and a National Judge to the testing area, and was advised by the Ground Jury about the consequences – the PR disappeared with his Horse.
- 18.16 Therefore, the PR should be considered at fault, and no “compelling justification” was received from any source that could have explained the PR’s behaviour.
- 18.17 In view of the above, the FEI respectfully submits that the applicable period of Ineligibility imposed on the PR shall be two (2) years in accordance with Article 10.3.1 of the EAD Rules.
- 18.18 Furthermore and pursuant to Art. 10.1.2 of the EAD Rules, the FEI requests the FEI Tribunal to disqualify the PR’s individual results obtained at the Event, with all consequences, in order to safeguard the level playing field.
- 18.19 On the fine to be imposed, the FEI submitted that Article 10.3.1 of the EAD Rules provides that, for a violation of Article 2.3 EAD Rules, a fine of up to CHF 15’000 and appropriate legal costs shall be imposed.
- 18.20 The FEI duly requests that a fine of seven thousand five hundred Swiss Francs (7’500 CHF) be imposed on the PR and that the PR be ordered to pay the legal costs that the FEI has incurred in the context of these proceedings, namely two thousand Swiss Francs (2’000 CHF).
- 18.21 The FEI requested the following prayers for relief against the PR:
- (i) *upholding the charge that the PR has violated Article 2.3 of the EAD Rules;*
  - (ii) *imposing a period of Ineligibility of two (2) years on the PR, commencing on the day of the decision (the Provisional Suspension served by the PR shall be credited against the imposed Ineligibility Period);*
  - (iii) *disqualifying the result of the PR and Horse combination obtained in the Event, and the consequent forfeiture of all medals, points, prize money, etc. won, pursuant to Articles 10.1.2 of the EAD Rules;*
  - (iv) *fining the PR in the amount of seven thousand five hundred (7’500) CHF; and*
  - (v) *ordering the PR to pay the legal costs of two thousands (2’000) CHF that the FEI has incurred in connection with these proceedings.*



## V. Legal Analysis

### A. Jurisdiction

19. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 161 of the GRs, the EAD Rules and Article 18 of the IRs. The PR is a member of the KSA-NF, which is a member of the FEI; therefore, the PR is bound by the EAD Rules.

### B. Legal Discussion

20. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, it only refers to the submissions and evidence it considers necessary to explain its reasoning in this decision.

#### 1. The Person Responsible

21. The PR is the Person Responsible for the Horse pursuant to Article 118 par. 3 of the GRs, Article 2.3 of the EAD Rules and Articles 1066, 1094 and 1095 of the VRs.

#### 2. Considering

22. Pursuant to Article 2.3 of the EAD Rules, there is an EAD Rule violation when a person evades, refuses or fails to submit to sample collection.
23. Pursuant to Article 2.3.3 of the EAD Rules, the rider of the Horse is the PR for the Horse and remains responsible for the Horse at all times. He is therefore responsible for bringing the Horse to the sample collection and remains responsible for the Horse throughout the Sample collection process.
24. In the present matter, the FEI Official's present on site submitted reports which mentioned an incident that took place during the Event involving the PR and the Horse.
25. The Tribunal considers that the abovementioned reports clearly state that the PR was notified about his Horse's selection for a Hyposensitivity Test, and later for a Doping control. Furthermore, when going to the testing area, the PR insisted first in having his Horse being re-tested even though protocol had been followed, with the Horse having been tested three times. Instead of following the instructions, the PR

the disappeared with the Horse, and was nowhere to be found on the premises of the Event venue, and refused the Doping test. It follows from the above that the Horse could not be tested.

26. In view of the above, the Tribunal is comfortably satisfied that the FEI has demonstrated that the PR committed a violation of Article 2.3 of the EAD Rules. Furthermore, based on the FEI Officials' reports, the Tribunal concludes that the PR's conduct was clearly intentional. The attempts of the FEI Officials to contact the PR, as well as the lack of responsiveness from the PR in the context of the proceedings, confirm the Tribunal's view that the PR indeed evaded, refused or failed to submit his Horse to sample collection, pursuant to Article 2.3 of the EAD Rules.
27. The Tribunal agrees with the FEI that Evading, Refusing or Failing to Submit the Horse to Sample Collection is a very serious offence. Indeed, the entire anti-doping system, as well as the integrity and credibility of the equestrian sport relies on the cooperation and abidance by the rules, of all participants in the context of the testing procedures.
28. With respect to the sanction to be imposed, and pursuant to Article 10.3.1 of the EAD Rules, the period of Ineligibility for an Article 2.3 violation, *i.e.*, Evading, Refusing or Failing to submit to Sample Collection, as in the case, is two (2) years, subject to a potential elimination, reduction, or suspension pursuant to Articles 10.4 to 10.6 of the EAD Rules.
29. In cases brought under the EAD Rules, a strict liability principle applies as described in Article 2.3 of the EAD Rules. Once an EAD Rule violation has been established by the FEI, the PR has the burden of proving that he bears "*No Fault or Negligence*" for the rule violation as set forth in Article 10.4 of the EAD Rules, or "*No Significant Fault or Negligence*", as set forth in Article 10.5 of the EAD Rules.
30. In the present matter, the PR did not submit any position in the context of the FEI Tribunal proceedings, and his concise submission provided for in the context of the FEI proceedings is not sufficient for the PR to discharge his burden of proving that he bears *No Fault or Negligence* for the EAD Rule Violation. No elimination, reduction, or suspension of the period of Ineligibility is therefore applicable.
31. The Tribunal finds that the applicable period of Ineligibility is two (2) years pursuant to Article 10.3.1 of the EAD Rules in connection with Article 2.3 of the EAD Rules.
32. In relation to fines and costs, the Tribunal considers that the PR has never seriously made the effort to give his version of the fact at the FEI level and later during the

Tribunal proceedings. Accordingly, the Tribunal rules that the fine to be imposed and the procedural costs to be borne by the PR should follow what is requested by the FEI, which reflects the seriousness of his behaviour and his lack of collaboration throughout the proceedings. The PR will therefore be fined seven thousand five hundred Swiss Francs (CHF 7'500) and his part of the procedural costs will amount to two thousand Swiss Francs (CHF 2'000).

33. Since an EAD Rule has been violated, and for reasons of ensuring a level playing field, the Tribunal disqualifies the Horse and the PR combination from the competition and the entire Event, and all medals, points and prize money won must be forfeited, in accordance with Articles 9 and 10.1 of the EAD Rules.

## VI. Terms of the Decision

34. As a result, the Tribunal makes the following decision and imposes the following sanctions in accordance with Article 169 of the GRs and Article 10 of the EAD Rules:
  - a) The PR violated Article 2.3 of the EAD Rules.
  - b) The PR shall be suspended for a period of two (2) years. The period of the Ineligibility will be effective from the day of the final decision and the Provisional Suspension (if applicable) served by the PR will be credited against the ordered period of Ineligibility.
  - c) The PR's and Horse's combination results obtained at the Event are disqualified, as well as all medals, points, prize money, etc. won at the Event, pursuant to Article 10.1.2 of the EAD Rules.
  - d) The PR is fined seven thousand five hundred Swiss Francs (CHF 7 500).
  - e) The PR shall pay his part of the costs of these proceedings in the amount of two thousand Swiss francs (CHF 2 000).
  - f) This Decision shall be notified to the PR, Mr Ayedh AL MUGHAMER, to his National Federation, the KSA-NF, and to the FEI.
35. The PR may not, during the period of Ineligibility, participate in any capacity in a competition or activity that is authorised or organised by the FEI or any National Federation or be present at an event (other than as a spectator) that is authorized

or organized by the FEI or any National Federation, or participate in any capacity in competitions authorized or organized by any international or national-level event organisation (Article 10.14.1 of the EAD Rules).

36. If the PR violates any of the conditions in the previous paragraph during Ineligibility, the results of any such participation will be disqualified and a new period of Ineligibility equal in length up to the original period of Ineligibility will be added to the end of the original period of Ineligibility. In addition, further sanctions may be imposed if appropriate (Article 10.14.3 of the EAD Rules).
37. According to Article 170 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.

## VII. Legal Action

38. In accordance with Article 13 of the EAD Rules the Parties may appeal this decision before the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

FOR THE TRIBUNAL



---

Ms Constance Popineau, One-Member Panel