

DECISION RENDERED BY THE FEI TRIBUNAL

5 June 2024

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE (the "FEI")

vs.

Mr Finn BOEREKAMP – Person Responsible (the "PR")

together the "Parties"

(Reference No. FEI Tribunal: C24-0009 BOEREKAMP)

COMPOSITION OF THE FEI TRIBUNAL PANEL:

Mr Agustin Fattal JAEF (ARG), Sole Panel Member

FEI Case number: 2024/BS03 KENSINGTON W

Person Responsible/ID/NF: Finn BOEREKAMP/10150533/NED

Horse/Passport: KENSINGTON W/107YP42/NED

Event/Date/ID: CSI3\* - Valencia (ESP) 19-25.02.2024, 2024\_CI\_1125\_S\_S\_01

Date of sample collection: 23.02.2024

Prohibited Substance(s): O-Desmethylenlafaxine

Bar Code No.: 5638614

All the words used in this Final Decision beginning with a capital letter and not previously defined have the meaning set forth in the specific definitions of the FEI General Regulations (the “GRs”) and Statutes, the FEI Veterinary Regulations (the “VRs”), the 2024 Equine Prohibited Substance List and the Equine Anti-Doping and Controlled Medication Regulations (the “EADCMRs”). The Equine Anti-Doping Rules (the “EAD Rules”) and the Equine Controlled Medication Rules (the “ECM Rules”) are set out in the EADCMRs.

## I. Introduction

1. This Final Decision pertains to the FEI case, 2024/BS03 KENSINGTON W. In this matter, the FEI notified the PR that a violation of Article 2.1 (*The Presence of a Banned Substance and/or its Metabolites or Markers in a Horse’s Sample*) and Article 2.2 (*the Use of a Banned Substance and/or Banned Method*) of the EAD Rules had occurred based on the positive finding of O-Desmethylvenlafaxine in the Sample of the horse, Kensington W (the “Horse”), which was collected at the CSI3\* in Valencia (ESP) on 23 February 2024 (the “Event”).
2. The FEI and the PR agreed to a Settlement Agreement on 13 May 2024 (the “Settlement Agreement”). The Settlement Agreement together with the attached Exhibits are hereby incorporated by reference in this Final Decision.

## II. Applicable Rule Provisions

3. The following regulations are applicable to the present case:

Statutes 25<sup>th</sup> edition, effective 21 November 2023 (the “Statutes”).

General Regulations, 24<sup>th</sup> edition, 1 January 2020, updates effective 1 January 2024. (the “GRs”).

Internal Regulations of the FEI Tribunal, 3<sup>rd</sup> Edition, 2 March 2018 (the “IRs”).

FEI Equine Anti-Doping and Controlled Medication Regulations, 3<sup>rd</sup> edition, effective 1 January 2023 (the “EADCMRs”). As only the EAD Rules apply in the present case, reference will be made hereinafter only to this second chapter of the EADCMRs.

FEI Veterinary Regulations, 15<sup>th</sup> edition 2023, effective 1 January 2024 (the “VRs”).

### III. Factual background and initial proceedings

4. Mr Finn BOEREKAMP (FEI ID 10150533) is an Athlete in the discipline of Jumping and the PR in accordance with Article 118.3 of the GRs.
5. The FEI is the IOC-recognised international governing body for the equestrian sport disciplines of Dressage and Para-Dressage, Jumping, Eventing, Driving and Para-Driving, Endurance and Vaulting.
6. The PR is a member of the Dutch Equestrian Federation (the "NED-NF"), the latter being a member of the FEI. The PR is therefore bound by the EAD Rules.
7. The Horse was tested during the Event and returned a positive finding of O-Desmethylvenlafaxine, which is a metabolite of Venlafaxine, which is a serotonin and norepinephrine inhibitor used as anti-depressant. It is classified as a Banned Substance under the 2024 FEI Equine Prohibited Substances List.
8. Therefore, the positive finding O-Desmethylvenlafaxine in the Sample gave rise to a violation of the EAD Rules (the "EAD Rule Violation").
9. The FEI informed the PR of the EAD Rule Violation in a notification letter dated 26 March 2024 (the "Notification Letter"). In accordance with Article 7.4.1. of the EAD Rules, the FEI provisionally suspended the PR as at the date of the Notification Letter (the "Provisional Suspension"), and the Horse was suspended for two months.
10. The PR had the right to request an analysis of the B Sample. The PR did not request its analysis; therefore, he irrevocably waived this right.
11. In the Notification Letter, the FEI further informed the PR of his right to provide an explanation within 20 days from the date of the Notification Letter.
12. On 22 April 2024, following an initial assessment of the PR's submissions and supporting documents, the FEI requested to the Tribunal the immediate lifting of the PR's provisional suspension. Said suspension was lifted as of 23 April 2024 by the FEI Tribunal, based on Article 7.4.4 (ii) of the EAD Rules, which provide that the provisional suspension can be lifted if the Person can demonstrate that the evidence will show that the Person bears No Fault or Negligence for the EAD Rule Violation that is alleged to have been committed, so that any period of Ineligibility that might otherwise be imposed for such offense is likely to be completely eliminated by application of Article 10.5.
13. The PR provided statements to the FEI where he explained how the Prohibited

Substance entered the Horse's system. The PR's Groom was prescribed and taking medication called Alvanta, which contained Venlafaxine since 2022 (one pill of 150 mg daily). Further, the Groom testified and admitted having urinated in the Horse's stall the day before the sample collection, as that day was very busy and stressful for her, she was overwhelmed and could not afford losing time to go to the toilets which were located 15 minutes away from the stables. She further indicated having chosen the Horse's box as it had curtains in order to ensure her some privacy. The PR (or the Groom's employer) could not know about the prescribed medications, since she had never informed them about it, and since in the Netherlands, it is forbidden to ask an employee about any medical information or health related matters.

14. In support of the above, the FEI was provided with the following documents and elements : witness statements of the PR, his employer and the Groom (in which the Groom expresses a deep remorse and takes full responsibility for the positive finding in the Horse's body); confirmation from the hospital about the prescribed treatment to the Groom, together with date and doses; pictures of the medication taken by the Groom and the leaflet; an Expert Report confirming the scientific plausibility of the provided explanation given the estimated concentration of the substance detected in the Horse's sample; pictures and videos from the stables, including the Horse's stall with curtains; the FEI Tribunal previous decisions in similar cases (where *No Fault or Negligence* was found due to cross-contamination through urination in the horse's stall).
15. Furthermore, the FEI verified with its external scientific expert, which confirmed that the explanations provided by the PR were scientifically plausible.
16. After reviewing the PR's submissions and evidence, the FEI was satisfied that the PR had established, on a balance of probabilities, how the Prohibited Substance entered the Horse's body.
17. Furthermore, the FEI was satisfied that the PR had established, pursuant to Article 10.5 of the EAD Rules, that he bore "No Fault or Negligence" for the EAD Rule Violation<sup>1</sup>.
18. On 13 May 2024, the FEI notified the Tribunal that it had reached a settlement of the dispute with the PR, which included the elimination of the period of Ineligibility to be imposed on the PR.

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<sup>1</sup> Paragraphs 2.1-2.3 of the Settlement Agreement dated 13 May 2024 between the FEI and the PR together with the Exhibits referenced therein evaluate the PR's level of Fault and Negligence for the EAD Rule Violation.

19. On 21 May 2024, the Tribunal informed the Parties of the appointment of a one-person hearing panel (the "Hearing Panel") to adjudicate and approve this case. The Parties were asked to provide any objections to the constitution of the Hearing Panel by 24 May 2024.
20. On 21 May 2024, the FEI confirmed having no objection to the constitution of the Hearing Panel.
21. The PR did not submit any objection to the constitution of the Hearing Panel.

#### IV. Accepted Terms

22. The Settlement Agreement is made in accordance with Article 10.8.2 of the EAD Rules and is subject to the approval of the Tribunal.
23. The PR explicitly admitted the EAD Rule Violation and accepted the following terms (the "Accepted Terms") in accordance with Article 10.8.2 of the EAD Rules:
  - a) The PR admits the violation of Article 2.1 of the EAD Rules (*The presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample*).
  - b) The PR established on a balance of probabilities how O-Desmethylvenlafaxine entered the Horse's system.
  - c) The PR has established that he bears No Fault or Negligence for the EAD Rule Violation in accordance with Article 10.5 of the EAD Rules.
  - d) The period of Ineligibility imposed on the PR shall therefore be eliminated.
  - e) The results achieved by the PR and the Horse at the Event are disqualified, with all resulting consequences, including forfeiture of any related medals, points and prizes, in accordance with Articles 9.1 and 10.1.2 of the EAD Rules.
  - f) The PR's Horse shall remain Provisionally Suspended for the period of two (2) months (until 25 May 2024).
  - g) The PR shall not incur any fine.
  - h) Each party will bear its own legal and other costs incurred in connection with these proceedings.
  - i) No other Sanctions will apply in this case.
  - j) In accordance with Article 10.9.2 of the EAD Rules, this violation of the EAD Rules shall not be considered a prior violation for the purpose of Article 10.9 (Multiple Violations) of the EAD Rules.

## V. Decision

24. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 159 of the GRs, the EAD Rules, the VRs and Article 18 of the IRs. The PR is a member of the NED-NF, which is a member of the FEI. The PR is therefore bound by the EAD Rules.
25. Having reviewed the case summary, the full reasoning of the Settlement Agreement and the Accepted Terms, the Hearing Panel takes note that the FEI has agreed that the PR established, on a balance of probabilities, how O-Desmethylvenlafaxine entered the Horse's system.
26. The Hearing Panel further acknowledges that the PR and the FEI have agreed on the terms to conclude these proceedings, in accordance with Article 10.8.2 of the EAD Rules, as detailed under Section IV of this Final Decision.
27. The Hearing Panel confirms that the Accepted Terms of the Settlement Agreement comply with the EAD Rules and finds no grounds to object to them.
28. In particular, the Hearing Panel notes that, in view of the Settlement Agreement reached by the parties that the PR bears No Fault or Negligence for the EAD Rule Violation, the period of Ineligibility imposed on the PR is eliminated.
29. Therefore, and in accordance with the mutual consent of the Parties, the Hearing Panel hereby directs the Parties to fully comply with all the terms of the Settlement Agreement. Furthermore, this Final Decision concludes this case, C24-0009 BOEREKAMP, 2024/BS03 KENSINGTON W.
30. The Parties acknowledge and agree that pursuant to Article 14.3 of the EAD Rules, this Final Decision will be made public by the FEI. The terms set out in the Settlement Agreement are full and final settlement of all claims relating to the subject matter of these proceedings.
31. The Settlement Agreement and this Final Decision are not subject to appeal under Article 13 of the EAD Rules.

DECISION TO BE FORWARDED TO:

- a. The Parties: Yes
- b. The Secretary General of the NF of the person sanctioned: Yes
- c. Any other: No

FOR THE FEI TRIBUNAL

A handwritten signature in blue ink, appearing to be 'Agustin Fattal Jaef', written over a horizontal line.

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Mr Agustin Fattal Jaef, One-Member Panel