

DECISION of the FEI TRIBUNAL

dated 18 July 2024

in the matter of

Mr Ahmad KAN'AAN (PR: Ref. C23-0053)

Mr Ibrahim FARE' KAN'AAN (APR: Ref. C23-0053)

(FEI Case number: FEI 2023/BS09 – ANA KS)

FEI Tribunal Hearing Panel: Dr Armand LEONE (USA)

FEI Tribunal Reference: C23-0053 Ahmad KAN'AAN (PR and Ibrahim FARE'KAN'AAN (APR;  
[FEI Case 2023/BS09])

Person Responsible/ID/NF: Ahmad KAN'AAN/10071407/JOR

Additional Person Responsible/ID/NF: Ibrahim FARE'KAN'AAN/10040454/JOR

Horse/Passport/NF: ANA KS/107CR49/JOR

Event/ID: CEI2\* 129 – Amman (JOR)/29-30.09.2023/2023\_CI\_1696\_E\_S\_02\_01

Date of Event: 30.09.2023

Prohibited Substance(s): Dexamethasone, Diclofenac, Meloxicam, Etoricoxib

Bar Code No.: 5620133

## I. Introduction

1. The Fédération Équestre Internationale (the **FEI**) case reference is 2023/BS09 ANA KS. The FEI alleged that Mr Ahmad KAN'AAN and Mr Ibrahim FARE'KAN'AAN committed a 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* and of Art. 2.1 of the ECM Rules – *The Presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Horse's Sample*. The FEI notified Mr Ahmad KAN'AAN and Mr Ibrahim FARE'KAN'AAN of the alleged charges in their respective capacity as the Person Responsible (the **PR**) and the additional Person Responsible (the **APR**).

## 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 (**EADCMRs**).
- FEI's Endurance Rules, 11<sup>th</sup> Edition, effective 1 July 2020, updates effective 1 January 2023 (**FEI Endurance Rules**).
- The World Anti-Doping Code - International Standard – Prohibited List – effective 1 January 2023 (**WADA Prohibited List**).
- FEI's 2023 Equine Prohibited Substances List, 5 December 2022 (**Equine Prohibited List**)

3. All the words used in this Tribunal Decision beginning with a capital letter and not previously defined have the meaning set forth in the specific definitions of the Statutes, GRs, IRs, the FEI Endurance Rules, the Equine Prohibited List and 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.

## II. Factual background

4. Mr Ahmad KAN'AAN (FEI ID 10071407), the PR, is an Endurance Rider from Jordan, who competed with his horse, ANA KS (the **Horse**) at the CEI2\* 129 in Amman (JOR) on 29-30 September 2023 (the **Event**). Mr Ibrahim FARE'KAN'AAN, the APR, was the registered Trainer from Jordan of the Horse.
5. The FEI (together with the PR and the APR, the **Parties**), is the sole IOC recognised international federation for equestrian sport. The FEI is the governing body of the FEI equestrian disciplines of Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, and Para-Equestrian.
6. Blood samples were collected from the Horse during the Event. ANA KS' A Sample returned a positive finding for Dexamethasone, Diclofenac, Meloxicam and Etoricoxib.
7. Dexamethasone is a corticosteroid used to treat inflammatory and autoimmune conditions. Diclofenac is a non-steroidal anti-inflammatory used to relieve pain and inflammation and Meloxicam is a non-steroidal anti-inflammatory used to relieve pain, inflammation and control fever. All three are classified as Controlled Medication Substances under the EADCM Rules.
8. Etoricoxib is a non-steroidal anti-inflammatory used to treat osteoarthritis, ankylosing spondylitis and acute pain. It is classified as a Banned Substance under the EADCM Rules.
9. The positive finding of Dexamethasone, Diclofenac and Meloxicam in the Horse's Sample gives rise to a Controlled Medication Rule Violation (as no valid Veterinary Form was submitted for the respective Prohibited Substances) and the positive finding of Etoricoxib in the Horse's sample gives rise to an Anti-Doping Rule Violation in accordance with the applicable regulations.

## III. Procedural background

10. By way of a notification letter dated 6 November 2023 (the **Notification Letter**), the FEI informed the PR and the APR of possible violations of Article 2.1 of the EAD Rules and the ECM Rules.
11. In accordance with Art. 7.4.1 of the EAD Rules, the FEI provisionally suspended the PR and the APR as of the date of the Notification Letter. The Horse was also provisionally suspended for two months until 5 January 2024.

12. On 8 November 2023, the PR and the APR, via the Jordan Equestrian Federation, requested for a Preliminary Hearing to be held. After the Parties had been entitled to submit written positions, the Preliminary Hearing took place on 7 December 2023.
13. By way of a Preliminary Decision dated 12 December 2023, the Preliminary Hearing Panel rejected the request from the PR and the APR to have their Provisional Suspensions lifted.
14. By way of Notices of Charge dated 8 February 2024, the FEI formally notified the PR and the APR of the alleged violations of Article 2.1 of the EAD Rules and the ECM Rules. The PR and the APR were given a deadline of 20 days to either admit the alleged violations and accept the proposed Consequences or challenge the allegation in writing. If they admitted the allegation and accepted the proposed Consequences, the otherwise period of Ineligibility of 30 months would be reduced by six months.
15. In the context of the FEI proceedings, the PR submitted his position on 15 November 2023, 23 January 2024, 24 January 2024, 25 January 2024, 4 February 2024 and 28 February 2024. While the APR did not submit himself positions, it is understood (cf. below, par. 17) that the positions remitted by the PR were on behalf of the APR as well.
16. By email dated 4 April 2024, the FEI submitted the case file to the Tribunal for adjudication. The FEI copied the PR's and the APR's NF, the Royal Jordanian Equestrian Federation (**JOR-NF**), to its correspondence. On the same day, the FEI Tribunal Clerk acknowledged receipt of the FEI's correspondence.
17. On 14 April 2024, the PR and the APR<sup>1</sup> responded to the FEI's correspondence of 4 April 2024, contesting the amount of the fine that was requested by the FEI.
18. On 28 April 2024, the PR and the APR wrote to the FEI stating again that the imposed fine was too high. On 29 April 2024, the FEI responded to this email, copying the FEI Tribunal, and reverted the PR and the APR to the fact that the matter was pending in front of the FEI Tribunal for a Final Decision.
19. On 30 April 2024, the PR and the APR stated the same as in their 28 April 2024 correspondence. On 2 May 2024, the FEI, copying the FEI Tribunal, informed them that they would have an opportunity to file their submissions in front of the FEI Tribunal and, in this respect, to object to the fine requested by the FEI.

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<sup>1</sup> For sake of reference, all email correspondences were received by either the PR or the APR, but it is understood that it was always sent on behalf of both of them, as supported by Evidence 19 submitted by the FEI, i.e. an email from the PR, hence the reference throughout the decision to "the PR and the APR".

20. On 3 May 2024, 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 6 May 2024. He further granted the PR and the APR with an opportunity to respond to the FEI's allegations by submitting a statement of defence and any supporting evidence by 23 May 2024. The Tribunal Chair informed the PR and the APR that should they fail to respond within the deadline, he would decide this case using the file material in his possession. Finally, the Tribunal Chair informed the Parties of their right to request an oral hearing, by 27 May 2024.
21. On 6 May 2024, the FEI informed the Tribunal that it did not have any objections to the constitution of the Hearing Panel.
22. On 6 May 2024, the PR and the APR submitted their "plea of mercy" to the FEI Tribunal, of which the FEI Tribunal Clerk acknowledged receipt on 7 May 2024.
23. On 2 June 2024, the PR and the APR asked the FEI about the status of the case, following their plea of mercy, and what would be the Final Decision rendered. The FEI transmitted the 2 June 2024 correspondence to the FEI Tribunal on 3 June 2024, further noting that neither of the parties requested a hearing before the prescribed deadline, noting therefore that the case could be decided on the written submissions.
24. On 8 June 2024, the PR and the APR asked again about the status of their case.
25. On 10 June 2024, the Sole Panel Member acknowledged receipt of the PR and the APR's various submissions. In this respect, the Sole Panel Member noted that, within the prescribed deadline that had elapsed on 27 May 2024, neither party requested for an oral hearing. Therefore, the Sole Panel Member informed the Parties that he would issue his decision based on the file at his disposal, and that the motivated decision would be notified to the parties in due course.

#### **IV. The Parties' Submissions:**

##### **A. Submissions by the PR and the APR**

26. The PR and the APR provided submissions in front of the FEI on 15 November 2023, 23 January 2024, 24 January 2024, 25 January 2024, 4 February 2024 and 28 February 2024. In front of the FEI Tribunal, the PR and the APR sent various correspondences, but submitted their position, entitled "plea of mercy and clemency", on 6 May 2024. The PR's and the APR's positions are summarised as follows:

- 26.1 The PR and the APR are the owners of Kanaan stables in Amman since 1999. The PR is a rider and a trainer of various horses, and the APR is the owner and the registered trainer of the Horse.
- 26.2 The Horse was suffering from a second-degree stomach ulcer, which required a medical treatment.
- 26.3 The PR and the APR take great care of their horses, which they treat very well, and want only to help them. They would never have given the detected Prohibited Substances to the Horse as the Horse suffers from stomach ulcers and as all of those Prohibited Substances have anti-inflammatory effects, they would cause more harm to the Horse than any potential benefit. The PR provided the FEI with some articles regarding stomach ulcers which mention that anti-inflammatory medications should not be given to horses with stomach ulcers.
- 26.4 In past races, the PR's and the APR's horses have been tested regularly, and never returned any positive sample.
- 26.5 The Horse is a rescue horse, that have been in the family for several years, and is part of the family, so that the PR and the APR would never do anything to hurt him.
- 26.6 The PR and the APR are well aware about all medications and feed that are given to their horses, checking all ingredients of the medications, via the FEI Clean Sport application. They are involved, with their federation, in educating people on how to treat horses properly.
- 26.7 Working with horses is their income, so that they have to take good care of their horses. In support of their position, the PR and the APR submitted to the FEI the following documents: the FEI Certificate of attendance to the course for national coaches level 1; a few invoices for some supplements/injections/ treatments for his horses; some invoices for some veterinary services/products; screenshots of the FEI Database and the PR's and the APR's performances/personal details; the start list of the Event; a few internet articles regarding ulcers in horses; some documents regarding the PR's court's case in Arabic and a free translation to English.
- 26.8 Despite all their efforts, the PR and the APR are however unable to explain how the Prohibited Substances entered the Horse's system.

- 26.9 The PR informed the FEI that the new racing area, where the Event took place, is not fully prepared yet. It is an open area in the middle of desert and there is no lighting or cameras. Anyone who intended to harm the Horse could have done so and no one would have noticed this person (because there is no light and workers/guards were sleeping). The PR stated that he has a disagreement with some former riders of his horses. Those people apparently filed a case with the Jordanian court to slander the PR's reputation and to demand financial compensation. The PR allege that those people could have tried to hurt him and the APR and therefore given the Prohibited Substances to the Horse.
- 26.10 Finally, the PR and the APR ask the Tribunal to look at their case with humanity and mercy, and take into account their explanations in deciding to reduce the period of Ineligibility to be imposed, as well as the financial fine, due to their economic and social circumstances.
- 26.11 Those circumstances are the fact that the PR and the APR are both unemployed, the APR does not have a university degree and the PR have an unstable income as a freelance trader. Furthermore, the period of Ineligibility has a negative impact on them since they cannot participate to FEI events anymore, which was a source of their income.

**B. Submissions by the FEI:**

27. On 4 April 2024, the FEI submitted, together with the case file, its Response to the Tribunal.
28. The FEI's position is summarised as follows:
- 28.1 Article 2.1 of the EAD Rules prohibits the presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample. Similarly, Article 2.1 of the ECM Rules prohibits the presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Horse's Sample during an Event without a valid Veterinary Form.
- 28.2 According to Article 118.3 paragraph 3 of the GRs, *the Person Responsible shall be the Athlete who rides, vaults or drives the Horse during an Event, but the Owner and other Support Personnel including but not limited to grooms and veterinarians may be regarded as additional Persons Responsible if they are present at the Event or have made a relevant Decision about the Horse. In vaulting, the lunger shall be an additional Person Responsible. In Endurance, the Trainer shall be the additional*

*Person Responsible.*

- 28.3 Article 800.4.1 of the Endurance Rules supports the principle in Article 118.3 paragraph 3 of the GRs that the Trainer is considered an additional Person Responsible because it states: *The Trainer is the person who is responsible for preparing the Horse both physically and mentally for competition (which includes determining the appropriate exercise programme, nutrition, and veterinary care for the Horse).* Therefore, the Trainer makes relevant Decisions about the Horse.
- 28.4 The APR was registered as the Horse's Trainer for the Event in the FEI Database. When someone is registered as a Trainer in the FEI database, the registered person acknowledges and accepts the definition of a Trainer pursuant to Article 800.4.1 of the Endurance Rules. There is also an irrebuttable presumption that the registered person is the person who is responsible for preparing the Horse both physically and mentally for competition.
- 28.5 Article 3.1 of the EADCM Regulations make it the FEI's burden to establish all of the elements of the ECM and EAD rules violations charged, to the comfortable satisfaction of the FEI Tribunal.
- 28.6 The elements of Articles 2.1 EADCM Regulations' violations are straightforward. It is not necessary that intent, fault, negligence or knowing Use be demonstrated in order to establish an ECM Rule/ EAD Rule violations under Article 2.1. Instead, these are 'strict liability' offences, established simply by proof that Prohibited Substance(s) were present in the Horse's Sample.
- 28.7 The results of the analysis of the A Sample taken from the Horse at the Event confirm the presence of Dexamethasone, Diclofenac, Meloxicam (all Controlled Medications) and Etoricoxib (a Banned Substance) and together constitute sufficient proof of violations of Article 2.1 of the ECMRs and Article 2.1 of the EADRs. Furthermore, those results are not disputed by the PR or the APR.
- 28.8 Article 10.9.5 of the EAD Rules provides that *Where a Person Responsible and/or member of the Support Personnel and/or other Person based on the same factual circumstances is found to have committed a violation involving both (a) Controlled Medication Substance(s) or (a) Controlled Medication Method(s) under the ECM Rules and (a) Banned Substance(s) or (a) Banned Method(s) under these EAD Rules, the Person Responsible and/or member of the Support Personnel and/or other Person shall be considered to have committed one EAD Rule violation and the Sanction imposed shall be based on the Banned Substance or Banned Method that carries the most severe Sanction.*



- 28.9 Article 10.2 of the EAD Rules provides that a Person Responsible (and/or an additional Person Responsible) with no previous doping and/or Controlled Medication offences, but who violates Article 2.1 of the EAD Rules, is subject to a period of Ineligibility of two (2) years, unless he can rebut the presumption of Fault on a balance of probability.
- 28.10 To rebut the presumption of Fault, the EAD Rules stipulate, and the jurisprudence of the FEI Tribunal and CAS is very clear: *it is a strict threshold requirement that the APR prove how the Prohibited Substance entered the Horse's system before making any plea of No (or No Significant) Fault or Negligence.* This threshold requirement is strictly applied because without such proof, it would be impossible to assess the degree of No (or No Significant) Fault or Negligence.
- 28.11 In this case, the PR and the APR declared that they did not administer the detected Prohibited Substances to the Horse. They stated that they have a disagreement with some former riders of their horses and allege that those people could have tried to hurt them and therefore given the Prohibited Substances to the Horse at the Event's venue which allegedly did not have appropriate lighting or security. The FEI submits that those allegations or explanations are just unsubstantiated (no indication as to who, when, how and why someone would or could attempt to give the Prohibited Substances to the Horse), and do not pass the "balance of probabilities" test.
- 28.12 Furthermore, the FEI also observed on many occasions that the claims that some third parties must have administered or contaminated a horse with Prohibited Substances are not uncommon in situations where the PR/APR have difficulties in explaining source of the Prohibited Substances in the horse.
- 28.13 In addition, CAS confirmed that *"a protestation of innocence, the lack of sporting incentive to dope, or mere speculation by an athlete as to what may have happened does not satisfy the required standard of proof (balance of probability) and that the mere allegation of a possible occurrence of a fact cannot amount to a demonstration that that fact did actually occur. Instead, the CAS has been clear that an athlete has a stringent requirement to offer persuasive evidence that the explanation he offers for an AAF is more likely than not to be correct, by providing specific, objective and persuasive evidence of his submissions."*<sup>2</sup>
- 28.14 The FEI further submits that it is also highly unlikely that a third party would

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<sup>2</sup> CAS 2017/A/5369 World Anti-Doping Agency (WADA) v. South African Institute for Drug-Free Sport (SAIDS) & Gordon Gilbert, award of 21 June 2018; par.148 of the award.

administer four (4) Prohibited Substances in order to harm the PR and the APR, whereas administration of only one Banned Substance would be “enough” and lead to the same result. As such, the FEI finds that claims of third parties’ involvement in the rule violation is totally unbelievable.

- 28.15 In addition, the FEI has recently been made aware that the PR’s and the APR’s Horse also tested positive in the national competitions (held after the Event but before the PR and the APR received the FEI Notification Letters dated 6 November 2023) and that the Horse’s sample from the national competition was reported positive to Diclofenac, one of the Controlled Medications reported also in the present case. The fact that the PR’s and APR’s Horse was tested positive to a Controlled Medication Substance in National Competitions held 14 days after the Event alone re-confirms the FEI position that the third-party administration scenario is not only unsubstantiated, but rather highly unlikely to have happened as we are in front of two recurring incidents.
- 28.16 Finally, the FEI would like to point out that Article 1008.20 of the VRs specifically stipulates that a *“failure of the OC to provide adequate stable security shall not be a defence to any violation brought under the EADCMRs”*.
- 28.17 Considering the above, the FEI submitted that it did not have any concrete evidence on how the Prohibited Substances entered the Horse’s system. Therefore, the PR and the APR did not satisfy the “threshold requirement” for proving the source of the Prohibited Substance.
- 28.18 To the contrary, the Horse’s Sample was tested to four (4) Prohibited Substances: one (1) Banned Substance and three (3) Controlled Medication Substances. This is a very worrisome situation which needs a special attention of the FEI and where a strict application of the rules must be maintained for the higher goal of the wellbeing of the horse.
- 28.19 The above is an Aggravating Circumstance, since it is very rare that four Prohibited Substances would be found in one sample. Furthermore, all of the Prohibited Substances have anti-inflammatory effects which undoubtedly would cause some adverse effects in the Horse’s body, increasing the risk of side effects, including gastric ulcers, which was even evidenced by some of the articles provided by the PR and the APR in the context of the proceedings.
- 28.20 In view of the above, and in application of Art. 10.4 of the EAD Rules, the FEI deems that the PR’s and the APR’s sanctions shall be increased by additional six (6) months of ineligibility, amounting, overall to 30 months (24 under Art. 10.2 of

the EAD Rules, and 6 more under Art. 10.4 of the EAD Rules).

- 28.21 Furthermore, the FEI requests the disqualification of the result of the PR and Horse combination obtained at the Event, in order to safeguard the level playing field, in application of Art. 9 and 10.1.2 of the EAD Rules.
- 28.22 As per the fines, and in view of the case and its Aggravating Circumstances, the FEI submits that each the PR and the APR be fined in the amount of CHF 10'000.-, and each shall bear the legal costs of CHF 3'000.-.
- 28.23 Given the totality of evidence, the FEI requested the following prayers for relief:
- (i) *upholding the charge that the PR and the APR have violated Article 2.1 of the EAD Rules;*
  - (ii) *imposing a period of Ineligibility of thirty (30) months on the PR and the APR in accordance with Articles 10.2 and 10.4 of the EADRs, commencing from the date of the Final Decision (the Provisional Suspension already served by the PR and the APR shall be credited against the imposed Ineligibility Period);*
  - (iii) *Confirming the two (2) months suspension of the Horse (6 November 2023 – 5 January 2024);*
  - (iv) *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 Article 9 and 10.1.2 of the EAD Rules;*
  - (v) *fining the PR and the APR each in the amount of 10'000 CHF; and*
  - (vi) *ordering the PR and the APR each to pay the legal costs of 3'000 CHF that the FEI has incurred in these proceedings.*

## V. Legal Analysis

### A. Jurisdiction

29. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 161 of the GRs, Article 8 of the EADCM Rules and Article 18 of the IRs. The PR and the APR are members of the JOR-NF, which is a member of the FEI; therefore, the PR and the APR are bound by the EADCM Rules.

## B. Legal Discussion

30. Although the Tribunal has fully considered all the facts, legal arguments and evidence in the present proceedings, it only refers to the facts and evidence it considers necessary to explain its reasoning in this decision.
31. The APR was registered as the Horse's Trainer in the FEI Database at the time of the Event. Article 118 paragraph 3 of the GRs, which is supported by Article 800.4.1 of the FEI Endurance Rules, clearly stipulates that in Endurance, the Trainer is an additional Person Responsible.
32. The violation of Article 2.1 of the EAD Rules (and Article 2.1 of the ECM Rules) is not in dispute. In any event, an analysis of the A Sample revealed the presence of Dexamethasone, Diclofenac, Meloxicam and Etoricoxib in the Horse's system, which constitutes sufficient proof of the violation of Article 2.1. Therefore, the FEI satisfied its burden by establishing an AAF and sufficiently proved the objective elements of the violation pursuant to Article 3 of the EAD Rules.
33. Pursuant to Article 10.2 of the EAD Rules, the period of Ineligibility for an Article 2.1 violation is two (2) years, subject to a potential reduction for No (or No Significant) Fault or Negligence in accordance with Articles 10.5 or 10.6 of the EAD Rules. To benefit from a reduction, the PR and the APR must establish as a threshold requirement how the Prohibited Substances entered the Horse's system.
34. The PR and the APR confirmed in their submissions that they had no idea how the Prohibited Substances entered the Horse's system. The PR and the APR believed that it was perhaps some other competitors which would have tried to hurt them, because they were in disagreement with them. The PR and the APR did not provide any sort of evidence to support their theory. Furthermore, the Sole Panel Member agrees with the FEI that this scenario would, in any event, not be much credible, since it is highly unlikely that a third party would administer four (4) Prohibited Substances in order to harm the PR and the APR, whereas administration of only one Banned Substance would be "enough" and lead to the same result.
35. Since the abovementioned explanation is the only one that the PR and the APR tried to put forward to explain the presence of the Prohibited Substances in the Horse's system, the Sole Panel Member can only conclude that the PR and the APR failed to prove how the Prohibited Substances entered into the Horse, which was the threshold requirement for a plea of No Fault, or No Significant Fault or Negligence, pursuant to Article 10.5 or 10.6 of the EAD Rules.

36. The Sole Panel Member finds that the PR and the APR did not discharge their burden of proving how the Prohibited Substances entered the Horse's system. Where this first hurdle has not been met (i.e., establishing the source of the Prohibited Substance), the Sole Panel Member cannot continue with the second step and evaluate the PR's and the APR's degree of Fault or Negligence. Therefore, the Sole Panel Member finds that the PR and the APR are not entitled to any reduction of the otherwise applicable period of Ineligibility under Articles 10.5 and 10.6 of the EAD Rules.
37. Furthermore, in application of Article 10.4 of the EAD Rules, if the FEI establishes in an individual case involving an EAD Rule violation, that Aggravating Circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased by an additional period of Ineligibility of up to two (2) years depending on the seriousness of the violation and the nature of the Aggravating Circumstances.
38. In the present matter, the Sample of the Horse returned not only a positive result for the Banned Substance, but also for three Controlled Medication Substances, which were not supported by any Veterinary Form. Furthermore, the Sole Panel Member does not find that explanation offered by the PR and the APR as to how the Prohibited Substances entered the body, namely competitor sabotage, is a good faith explanation. A Banned Substance and 3 Controlled Medication Substances were identified in the Horse, which is inconsistent with the proffered explanation and wholly consistent with an intentional effort to provide anti-inflammatory and anti-pain therapy in violation of the EADCM Rules. This, in the Sole Panel Member's view, constitutes without any doubt Aggravating Circumstances pursuant to Art. 10.4 of the EAD Rules. The fact that all four Prohibited Substances are anti-inflammatory substances is also very worrisome in terms of protection and welfare of the horses.
39. Moreover, while the PR and the APR alleged having a clear record, the Sole Panel Member notes that, according to the information gathered by the FEI from the JOR-NF, and which was submitted as part of the file, the Horse tested positive, shortly after the Notification Letter was sent, to Diclofenac at the occasion of a different event, Diclofenac which is one of the Prohibited Substances which were found in the Horse's system in the context of the present matter.
40. All in all, the Sole Panel Member is convinced that Aggravating Circumstances apply in the present matter, and the applicable period of Ineligibility of two (2) years pursuant to Article 10.2 of the EAD Rules should be increased by six (6) months pursuant to Article 10.4 of the EAD Rules.

41. The Tribunal also finds the FEI's request for a fine of CHF 10'000 to each the PR and the APR, and costs of CHF 3'000 to each the PR and the APR, are reasonable and in keeping with the *FEI Guidelines for Fines and Contributions towards Legal Costs*.
42. In this respect, the Aggravating Circumstances mentioned above need also to be taken into account when it comes to imposing fines, which justify imposing fines which are within the (lower) range of the proposed fines pursuant to the *FEI Guidelines for Fines and Contributions towards Legal Costs* for a first violation of Art. 2.1 with Aggravating Circumstances.
43. On the other hand, the arguments brought forward by the PR and the APR to have the imposed fine lowered are not substantiated. Indeed, the PR and the APR did not submit any documents which would support their allegations that their horses are their only source of income – except, for the PR, to be also a freelance trader – and that they would somehow currently be unemployed. For the sake of clarity, the Panel notes that, even if those allegations would be substantiated, in view of the seriousness of the Rule Violations committed, there is no certainty, at all, that it would have made any impact on a possible lowering of the fines imposed.
44. Finally, and in application of Articles 9 and 10.1.2 of the EAD Rules, the Sole Panel Member agrees with the FEI that, in order to safeguard the level playing field, the results of the PR and Horse combination obtained in the entire Event shall be disqualified, and the consequent forfeiture of all medals, points, prize money, etc. won.

## VI. Terms of the Decision

45. 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 and the APR violated Article 2.1 of the EAD Rules.
  - b) The PR and the APR are suspended for a period of thirty (30) months, in accordance with Articles 10.2 and 10.4 of the EAD Rules. The period of Ineligibility will be effective from the day of this Tribunal Decision and the Provisional Suspension served by the PR and the APR will be credited against the ordered period of Ineligibility.
  - c) The Horse is suspended for two (2) months, from 6 November 2023 until 5 January 2024.
  - d) All the results of the PR and Horse combination obtained at the Event are disqualified, with the consequent forfeiture of all medals, points, prize money, etc.

won, pursuant to Article 9 and 10.1.2 of the EAD Rules.

- e) The PR and the APR are each ordered to pay a fine of ten thousand Swiss Francs (CHF 10'000).
  - f) The PR and the APR are each ordered to pay three thousand Swiss francs (CHF 3'000) as a contribution to the legal costs that the FEI has incurred in these proceedings.
46. The PR and the APR, their National Federation of Jordan and the FEI will be notified of this Tribunal Decision.
47. The PR and the APR 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 organised by the FEI or any National Federation, or participate in any capacity in Competitions authorised or organized by any international or national-level event organisation (Article 10.14.1 of the EAD Rules).
48. If the PR and/or the APR violate any of the conditions in the previous paragraph during the period of 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).
49. According to Article 170 of the GRs, this Tribunal Decision is effective from the day of written notification to the persons and bodies concerned.

## VII. Legal Action

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

FOR THE TRIBUNAL



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Dr Armand Leone, Sole Panel Member