

DECISION RENDERED BY THE FEI TRIBUNAL

29 August 2024

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE (the "FEI")

vs.

Mr Joel FUNNELL – Person Responsible (the "PR")

together the "Parties"

(Reference No. FEI Tribunal: C24-0032)

COMPOSITION OF THE FEI TRIBUNAL PANEL:

Mr Jose A. Rodriguez Alvarez (MEX), Sole Panel Member

FEI Case number: 2024/BS04

Horse/Passport: AIRBRUSHED/105JY98/AUS

Person Responsible/ID/NF: Joel FUNNELL/10081461/AUS

Event/Date: CCI4\*-S - Tonimbuk VIC (AUS) 09-10.03.2024

Event/ID: 2024\_CL\_1377\_C\_S\_01

Date of sample collection: 09.03.2024

Prohibited Substance(s): O-Desmethylvenlafaxine

Bar Code No.: N279443

## I. Introduction

1. This Decision pertains to the FEI case 2024/BS04 AIRBRUSHED (the “Horse”). In respect of this case, 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 Equine Anti-Doping Rules (the “EADRs”) had occurred based on the adverse analytical finding (the “AAF”) of O-Desmethylvenlafaxine in the Horse’s Sample collected at the CCI4\*-S-Tonimbuk VIC (AUS), on 9-10 March 2024 (the “Event”).
2. A Settlement Agreement between the FEI and the PR in respect of this case was agreed to by the Parties on 15 August 2024 (the “Settlement Agreement”). The Settlement Agreement and the Exhibits thereto are hereby incorporated herein by reference.

## 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 EADRs apply in the present case, reference will be made hereinafter only to this first chapter of the EADCMRs.

## III. Factual background and initial proceedings

4. Mr Joel FUNNELL (FEI ID 10081461), the PR in accordance with Article 118.3 of the GRs, is an Athlete in the discipline of Eventing for Australia.
5. 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.
6. The PR is a member of the Australian Equestrian Federation (the “AUS-NF”), the latter being a member of the FEI, thus the PR is bound by the EADCMRs.

7. The Horse was tested during the Event and returned an AAF for the presence of O-Desmethylvenlafaxine. O-Desmethylvenlafaxine is a metabolite of Venlafaxine, which is a serotonin and norepinephrine inhibitor used as anti-depressant and is classified as a Banned Substance under the FEI Equine Prohibited Substances List 2024. Banned Substances are substances that are prohibited in and out of competition.
8. The PR was provided with the right to request the B Sample analysis. The PR requested for the B sample to be analysed, which confirmed the finding of the A Sample, i.e. the presence of O-Desmethylvenlafaxine. The B Sample was notified on 8 July 2024.
9. The FEI informed the PR of the positive result for this Banned Substance by way of a notification letter dated 27 May 2024 (the "Notification Letter"). In accordance with Article 7.4.1. of the EADRs, the FEI provisionally suspended the PR as of the date of the Notification Letter (the "Provisional Suspension"). The FEI also provisionally suspended the Horse for 2 months as of that date (from 27 May 2024 until 26 July 2024).
10. In the Notification Letter, the FEI also explained to the PR that in accordance with Article 10.8.2 of the EADRs, if "the Person Responsible and/or member of the Support Personnel and/or other Person admits an EAD Rule violation after being confronted with the EAD Rule violation by the FEI and agrees to Consequences acceptable to the FEI" they may enter into a Case Resolution Agreement and agree to Consequences acceptable at the sole discretion of the FEI. The agreement shall be submitted to the FEI Tribunal (the "Tribunal") for the sole purpose of the Tribunal confirming that the criteria set forth in the EADRs have been fulfilled (or do not apply) and, where so confirmed by the Tribunal, the final agreement shall state the full reasons for any period of Ineligibility agreed, including (if applicable), a justification for why the flexibility in sanction was applied.
11. On 3 June 2024, the PR requested the FEI Tribunal to lift the Provisional Suspension, pursuant to Article 7.4.4 of the EAD Rules. This request was denied by the Preliminary Hearing Panel constituted for the case, which issued its Operative Award on 4 June 2024, and the motivated decision on 23 July 2024. The Provisional Suspension was maintained on the grounds, *inter alia*, that the PR was unable, at that time, to demonstrate how the Prohibited Substance entered the Horse's body.
12. Various submissions were remitted by the PR in the context of the FEI proceedings, following his investigation of the source of the Prohibited Substance found in the Horse, including after the Preliminary Decision of the FEI Tribunal. After review of

the PR's submissions and evidence newly provided, including witness statements, the FEI was satisfied that the PR had established, on a balance of probabilities, that the source of the Prohibited Substance arose from the Horse ingesting contaminated grass, due to a groom urinating (while being under medical treatment which contained the Prohibited Substance [anti-depressant medicine called Efexor, which contained Venlafaxine, active metabolite: O-Desmethylvenlafaxine]), during the night, in the grass where the Horse grazed the day after. Therefore, and after having received a confirmation of the plausibility of this explanation, the FEI considered that the PR had established how the Prohibited Substance entered the Horse's body.

13. Furthermore, the FEI was satisfied that the PR established, pursuant to Article 10.5 of the EADRs, that he bore "No Fault or Negligence" for the rule violation<sup>1</sup>.
14. On 15 August 2024, the FEI notified the Tribunal that it had reached a settlement of the dispute with the PR, which included the elimination of any Period of Ineligibility to be imposed on the PR. Since the PR has been suspended since 27 May 2024, the FEI requested that the Tribunal lift the Provisional Suspension of the PR as soon as possible and with immediate effect.
15. On 26 August 2024, the Tribunal informed the Parties of the appointment of a one-person hearing panel to adjudicate and approve this case. The Parties were asked to provide any objections to the constitution of the hearing panel.
16. On 26 August 2024, both the PR and the FEI confirmed having no objection to the constitution of the hearing panel.

#### **IV. Accepted Terms.**

17. The Settlement Agreement is made in accordance with Article 10.8.2 of the EADRs and is subject to the approval of the Tribunal.
18. The PR explicitly admitted the EADR violation and accepted the following terms (the "Accepted Terms") in accordance with Article 10.8.2 of the EADRs:
  - a) The PR admits the violation of Article 2.1 EADR (*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;

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<sup>1</sup> Settlement Agreement 15 August 2024 (between FEI and PR), paragraph 3.5, regarding the evaluation of the PR's level of Fault and Negligence for the rule violation, and Exhibits referenced therein.

- c) The PR has established that he bore No Fault or Negligence for the rule violation in accordance with the Article 10.5 EADR;
- d) The Period of Ineligibility imposed on the PR shall therefore be eliminated and the Provisional Suspension of the PR which has been in place since 27 May 2024, shall be immediately lifted by the date of this decision;
- 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 the Articles 9.1 and 10.1.2 of the EADR;
- f) The PR's Horse was Provisionally Suspended for the period of two (2) months (until 26 July 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 EADR, this violation of the EADR shall not be considered a prior violation for the purpose of Article 10.9 (Multiple Violations) of the EADR.

## V. Decision

- 19. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 161 of the GRs, the EADRs and Article 18 of the IRs. The PR is a member of the AUS-NF, which is a member of the FEI; therefore, the PR is bound by the EADRs.
- 20. Having reviewed the case summary, the full reasoning of the Agreement and the terms of the Agreement, the Tribunal takes note that the FEI has agreed that the PR has established, on a balance of probabilities, how O-Desmethylvenlafaxine entered the Horse's system.
- 21. The Tribunal further acknowledges that the PR and the FEI have agreed on terms for the closure of the proceedings, in accordance with Article 10.8.2 of the EADRs, as detailed under Section IV of this Decision.
- 22. The Tribunal confirms that the Accepted Terms of the Settlement Agreement comply with the EADRs and finds no grounds to object thereto.
- 23. In particular, the Tribunal 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 provisional suspension imposed on the PR shall be lifted with immediate effect,

as of notification of the present decision.

24. Therefore, and in accordance with the mutual consent of the Parties, the Tribunal hereby directs the Parties to fully comply with all the terms of the Settlement Agreement, and to revise the results, including team results if applicable, of the Event accordingly. Furthermore, this Decision shall terminate the present case C24-0032 FUNNELL, 2024/BS04 AIRBRUSHED.
25. The Parties acknowledge and agree that pursuant to Article 14.3 of the EADRs, the Decision will be made public by the FEI. The terms set out in the Settlement Agreement have been agreed as a full and final settlement of all claims relating to the subject matter of these proceedings.
26. The Settlement Agreement and this Decision are not subject to appeal under Article 13 of the EADRs.

**DECISION TO BE FORWARDED TO:**

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

**FOR THE FEI TRIBUNAL**



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Mr Jose A. Rodriguez Alvarez, One-Member Panel