



DECISION of the FEI TRIBUNAL

dated 12 October 2018

Positive Controlled Medication Case No.: 2017/FT29

Horse: ZACHARY DE LION Z

FEI Passport No: 103MA67/BEL

Person Responsible/NF/ID: Sybren De Pre/10084779/BEL

Event/ID: CSI2* - Zuidwolde (NED)/2017_CI_0464_S_S_01

Date: 13 – 16 July 2017

Prohibited Substance: Meloxicam

I. COMPOSITION OF PANEL

Mr. Cesar Torrente (COL), one member panel

II. SUMMARY OF THE FACTS

- 1. Memorandum of case:** By Legal Department.
- 2. Summary information provided by Person Responsible (PR):**
The FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file, as also made available by and to the PR.
- 3. Oral hearing:** None.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

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

Statutes 23rd edition, effective 29 April 2015 ("**Statutes**"), Arts. 1.4, 38 and 39.

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2017, Arts. 118, 143.1, 161, 168 and 169 ("**GRs**").

Internal Regulations of the FEI Tribunal, 2nd edition, 1 January 2012, and Internal Regulations of the FEI Tribunal, 3rd Edition, 2 March 2018 (Part I – 3.) ("**IRs**").

FEI Equine Anti-Doping and Controlled Medication Regulations ("**EADCMRs**"), 2nd edition, effective 1 January 2016.

FEI Controlled Medication Regulations ("**ECM Rules**"), 2nd edition, effective 1 January 2016.

Veterinary Regulations ("**VRs**"), 13th edition 2015, effective 1 January 2017, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

2. Person Responsible: Mr. Sybren De Pre.

3. Justification for sanction:

GRs Art. 143.1: "Medication Control and Anti-Doping provisions are stated in the Anti-Doping Rules for Human Athletes (ADRHA), in conjunction with the World Anti-Doping Code, and in the Equine Anti-Doping and Controlled Medication Regulations (EADCM Regulations)."

GRs Art. 118.3: "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."

ECM Rules Art. 2.1.1: "It is each Person Responsible's personal duty to ensure that no Controlled Medication Substance is present in the Horse body during an Event without a valid Veterinary Form. Persons Responsible are responsible for any Controlled Medication Substance found to be present in their Horse's Samples, even though their Support Personnel will be considered additionally responsible under Articles 2.2 – 2.5 ECM Rules where the circumstances so warrant. It is not necessary that intent, Fault, negligence or knowing Use be demonstrated in order to establish a Rule violation under Article 2.1."

EADCMRs APPENDIX 1 – Definitions:

“Fault. Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Person Responsible and/or member of the Support Personnel’s degree of Fault include, for example, the Person Responsible’s and/or member of the Support Personnel’s experience, whether the Person Responsible and/or member of the Support Personnel is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Person Responsible and/or member of the Support Personnel and the level of care and investigation exercised by the Person Responsible and/or member of the Support Personnel in relation to what should have been the perceived level of risk. In assessing the Person Responsible’s and/or member of the Support Personnel’s degree of Fault, the circumstances considered must be specific and relevant to explain the Person Responsible’s and/or member of the Support Personnel’s departure from the expected standard of behaviour. Thus, for example, the fact that the Person Responsible would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Person Responsible only has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.”

“No Fault or Negligence. The Person Responsible and/or member of the Support Personnel establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had administered to the Horse, or the Horse’s system otherwise contained, a Banned or Controlled Medication Substance or he or she had Used on the Horse, a Banned or Controlled Medication Method or otherwise violated an EAD or ECM Rule. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Horse’s system.”

“No Significant Fault or Negligence. The Person Responsible and/or member of the Support Personnel establishing that his 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 EADCM Regulation violation. Except in the case of a Minor, for any violation of Article 2.1 of the EAD Rules and Article 2.1 of the ECM Rules, the Athlete must also establish how the Prohibited Substance entered the Horse’s system.”

IV. DECISION

Below is a summary of the relevant facts, allegations and arguments based on the Parties' written submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, in its decision it only refers to the submissions and evidence it considers necessary to explain its reasoning.

1. Factual Background

- 1.1 ZACHARY DE LION Z (the "**Horse**") participated at the CSI2* in Zuidwolde, the Netherlands, from 13 to 16 July 2017 (the "**Event**"), in the discipline of Jumping. The Horse was ridden by Mr. Sybren De Pre who is the Person Responsible in accordance with Article 118.3 of the GRs (the "**PR**").
- 1.2 A blood sample was taken from the Horse during the Event, on 15 July 2017.
- 1.3 Analysis of the blood sample number 5558242 were performed at the FEI-approved Laboratory, LGC, in Fordham, United Kingdom (the "**Laboratory**"). The analysis of the blood sample revealed the presence of Meloxicam.
- 1.4 The Prohibited Substance detected is Meloxicam. Meloxicam is a non-steroidal anti-inflammatory drug with anti-inflammatory and analgesic effect. Meloxicam is classified as Controlled Medication Substance under the FEI Equine Prohibited Substances List (the "**FEI List**"). Furthermore, no valid Veterinary Form exists for the substance. Therefore, the positive finding for Meloxicam in the Horse's sample gives rise to a Controlled Medication Rule violation under the EADCMRs.

2. The Further Proceedings

- 2.1 On 14 August 2017, the FEI Legal Department officially notified the PR through the National Federation of Belgium ("**BEL-NF**"), of the presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the possible consequences.

- 2.2 The proceedings were initiated under the Administrative Procedure (otherwise referred to as the "Fast Track" procedure) insofar as the respective prerequisites under Article 8.3 of the ECM Rules were fulfilled. The PR was afforded the opportunity to accept the following administrative sanctions: (i) Disqualification of himself and the Horse from the whole Event including the forfeiture of all prizes and prize money won at the Event, (ii) a fine of one thousand five hundred Swiss Francs (CHF 1,500), and (iii) the payment of thousand Swiss Francs (CHF 1,000) in costs. The PR was further informed that in case he did not accept the administrative sanctions offered, the case would be submitted to the Tribunal procedure, and, provided the presence of the substance was established, the Tribunal would impose penalties which would be more or less severe than the administrative sanctions offered.
- 2.3 The PR, and after having been made fully aware of the potential risks and consequences of declining the administrative sanctions by the FEI, did not accept the administrative sanctions offered, and the case at hand was submitted to the Tribunal procedure.

3. The B-Sample analysis

- 3.1 Together with the Notification Letter of 14 August 2017, the PR and the owner of the Horse ("**Owner**") were also informed that they were entitled (i) to the performance of a B-Sample confirmatory analysis on the positive sample; (ii) to attend or be represented at the B-Sample analysis; and/or (iii) to request that the B-Sample be analysed in a different laboratory than the A-Sample.
- 3.2 The PR or the Owner did not request that the B-Sample be analysed. Hence, they accepted the results of the A-Sample analysis.

4. Written submission by and on behalf of the PR

- 4.1 Between 29 August and 6 September 2017, the PR and Owner submitted the following explanations for the positive finding.
- 4.2 The Owner stated as follows:

"(...) On the 12 July, we arrived at the premises of CSI Zuid Wolden, around 8 pm we noticed that Zachary our horse was constantly laying down like he was making a colic.

We decided to go to the sport secretariat of the oc to request a vet. The oc called in the vet on duty DIERENARTSENPRAKTIJK DE WOLDEN and 30 min later the vet arrived at the stables.

After an investigation of our horse the vet decided to give 2 injection to the horse, one with buscopan and the other with metacam.

We asked the vet if this treatment was positive and the vet checked here list and could not find busopan or metacam on the list and told us that this was no doping so we could participate with this horse, she also mentioned that the horse would not jump any better because of the medicines.

The vet also noted that she used buscopan and metacam on the visiting form and on the invoice so this was not a matter of trying to cheat but a Mather of curing a horse that was ill.

We have in total 4 people who can confirm that vet Miranda Lubberink told us that the medicines where no doping and we could participate the next day with our horse Zachary De Lion Z.

On the 15 July we had a FEI check for our horse Zachary De lion Z and it was after I presented the visiting form from vet Miranda Lubberink that the FEI vet noticed that vet Miranda Lubberink was not a FEI approved vet, we where onder the impression she was a FEI vet because she was called in bij the oc and DIERENARTSENPRAKTIJK DE WOLDEN have a FEI approved vet Reinier Logher but apparently they send Miranda Lubberink for some reason without telling us.

The FEI vet checked both medicines on the visiting form and the only thing he noted was that buscopan could create a problem depending on if it was a short or long term working medicine, vet Miranda Lubberink told us on the 12 July that buscopan was a short working medicine and after I explained this to the FEI vet everything was ok.

If one or both of the medicines where not ok why could we continue the day after with our horse.

Further more I would like to say that the only thing that we as owner/rider could do in this case was verifying that the horse was not positive by means of asking the vet, if the vet tells me that this is no doping then I should have faith in the system and continue with the sports.

I do hope that you understand that we never had the idea of using medicines to increase the results of the horse, but only to cure the horse

from his illness, this treatment was needed for the welfare of the horse at the first place."

- 4.3 Together with the statement the Owner submitted a visiting form and invoice of the veterinarian showing that the veterinarian administered intravenously 30 cc buscopan and 10 cc metacam on 12 July 2017 (the invoice however refers to metacam 20). Both the visiting form and the invoice are issued in the PR's name; however, they do not mention which horse was injected with the substances.

- 4.4 The PR himself stated as follows:

"Hereby I Sybren De Pre confirm that on 12/07/2107 vet Miranda lubberink from dierenartsenpraktijk De Wolden declared that our horse Zachary De lion Z would not be positive due to buscopan and metacam she gave him. She said that the horse would not be positive at any times and that both medicines where not on her list of positive products.

When I saw that Zachary was not feeling well after I flat worked him, I went to the secretary to mention this and they called the vet on duty. They told me that the vet would be there in 15 minutes. I thought they would call a FEI approved vet because that's what they normally do. Afterwards it seems that we did not received an FEI approved vet.

Every person in my situation would do the same as we did, so we are very disappointed that we get punished for something which is truly normal."

- 4.5 In addition, three (3) more (unsigned) statements were submitted, which – in essence – confirmed that the veterinarian, who treated the Horse, declared that the Horse would not test positive due to the administration of buscopan and metacam by means of two injections. Furthermore, that both of the aforementioned medicines were not on her list of "positive products" and that she declared that the Horse could compete on the following day without any risk of testing positive.

- 4.6 According to the FEI Response, the Owner further emphasized on 6 September 2017 that they were under the impression that the veterinarian who treated the Horse was FEI approved since the veterinarian was called-in by the Organising Committee, and that they could have otherwise presented the visiting form to the FEI veterinarian.

5. Written Response by the FEI

- 5.1 On 22 August 2018, the FEI provided its Response to the explanations provided by the PR and Owner.
- 5.2 In essence the FEI submitted that:
- a) Article 3.1 of the ECM Rules made it the FEI's burden to establish all of the elements of the ECM Rule violation charged, to the comfortable satisfaction of the Tribunal. The elements of an Article 2.1 violation were straightforward. *"It is not necessary that intent, fault, negligence or knowing Use be demonstrated in order to establish an ECM Rule violation under Article 2.1"*. Instead it was a "strict liability" offence, established simply by proof that a Controlled Medication Substance was present in the Horse's sample. The results of the analysis of the A-Sample taken from the Horse at the Event confirmed the presence of Meloxicam, and constituted "sufficient proof" of the violation of Article 2.1 of the ECM Rules. The PR and the Owner did not dispute the presence of the Meloxicam in the Horse's sample. Accordingly, the FEI respectfully submitted that it has discharged its burden of establishing that the PR has violated Article 2.1 of the ECM Rules.
 - b) Where a Controlled Medication Substance was found in a horse's sample without a valid Veterinary Form, a clear and unequivocal presumption arose under the ECM Rules that it was administered to the horse deliberately in an illicit attempt to enhance its performance. As a result of this presumption of fault, Article 10.2 of the ECM Rules provided that a Person Responsible with no previous doping offence, but who violated Article 2.1 of the ECM Rules was subject to a period of Ineligibility of six (6) months, unless he was able to rebut the presumption of fault. To do this, the rules specified that he must establish to the satisfaction of the Tribunal (it being his burden of proof, on a balance of probability): (i) how the Prohibited Substances entered the Horse's system; and (ii) that he bore No Fault or Negligence for that occurrence, *i.e.*, 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 administered to the Horse (or the Horse's system otherwise contained) a Controlled Medication Substance; or, alternatively (iii) that he bore No Significant Fault or Negligence for that occurrence. If the PR failed to discharge this burden, the presumptive six-month ban under Article 10.2 of the ECM Rules applied.
 - c) The ECM Rules stipulate and the jurisprudence of the Tribunal and the Court of Arbitration for Sport ("**CAS**") are very clear: it is a strict threshold requirement of any plea of No (or No Significant) Fault or Negligence that the PR prove how the substance(s) entered into the

Horse's system. The FEI submitted that the PR has an obligation to provide clear and convincing evidence that proved how the Meloxicam entered the Horse's system. In taking into consideration the Owner's explanations for the positive finding, together with the Visiting Form and the related invoice by the Veterinarian, the FEI submitted that the Owner established, by a balance of probabilities, how the Prohibited Substance entered the Horse's system. As a result, the FEI submitted that the first prerequisite of Articles 10.4.1/10.5.1 of the ECM Rules was fulfilled in the case at hand.

- d) In terms of the degree of Fault or Negligence by the PR for the rule violation, the starting point of any evaluation was the "*personal duty*" of the PR following from Article 2.1.1 of the ECM Rules, *i.e.*, his personal duty to ensure that "*no Controlled Medication Substance is present in the Horse's body during an Event without a valid Veterinary Form*".
- e) The FEI argued that, through the FEI Clean Sport programme and in particular the "*Athletes Guide*"¹, it had gone to considerable lengths to communicate relevant information on the EADCMRs to Athletes. It had to be noted in this context that, in the *Glenmorgan decision*², CAS had stated that the Athlete's Guide "*contains straightforward advice both to PRs and Support Personnel in a non-technical, non-legal form*" and described the Athlete's Guide as "*required reading*".
- f) Furthermore, the Sole Arbitrator in the *Royal des Fontaines case*³ had endorsed the rationale behind the FEI's policy of making the Athlete/rider the Person Responsible. The CAS Decision states as follows (at para 57):

"No doubt the degree of care is high; but horses cannot care for themselves. As the Respondent (the FEI) put it in its skeleton argument

"The FEI believes that making the rider the responsible in this way is necessary to protect the welfare of the horse, and to ensure fair play. It strongly incentivises riders to ensure compliance with the rules, whether by caring for the horse personally or else by entrusting that task only to third parties who are up to the job. In the case of such delegation, it protects the welfare of the horse, and clean sport, by requiring the rider to stay apprised of and be vigilant with respect to the way the horse is being prepared for competition, including as to any treatments given to the horse"

¹ Athlete's Guide to the Equine Anti-Doping and Controlled Medication Regulations, effective 5 April 2010

² CAS 2014/A/3591 Sheikh Hazza Bin Sultan Bin Zayed Al Nahyan v. FEI

³ CAS 2015/A/4190 Mohammed Shafi Al Rumaithi v. FEI

The Sole Arbitrator respectfully agrees."

g) In the *Glenmorgan* case (in para 209) the Panel confirmed that the rider was best fit to control the Horse before a competition. *"... Among them (any support personnel), the rider is best able to function as the "last check" on the physical condition of the horse immediately prior to and during the race, regardless of whether he knows the horse or mounts it for the first time. An experienced rider can quite often identify with the naked eye an irregularity in the condition and behaviour of the animal both before mounting and during the competition."*

h) The Panel further stated as follows (in para 203):

"The Panel wishes to emphasize again that the fault or negligence which determines the measure of the Appellant's sanction is not that of the Dr. It is the Appellant's own fault and negligence in not having exercised the standard of care applicable to a PR which, like the non-equine Athlete, is placed at the exercise of "utmost caution". It is the PR's personal duty to ensure that no Banned Substance is present in the Horse's body."

i) In light of the stated CAS jurisprudence on this point, the FEI respectfully submitted that making the PR prima facie responsible for the condition of the Horse while competing, subject to his ability to prove he bore No (Significant) Fault or Negligence for the Horse's positive test results is a reasonable and justifiable stance. Furthermore, as the CAS jurisprudence confirmed, the rider was, no matter what, the Person Responsible for the horse he competed with, and could not delegate this duty to another person. The PR, therefore, has an obligation to ensure that no Prohibited Substance enters into the horse's system, and must act with the utmost caution to fulfil this duty. Conclusions to be drawn from the case law are that the duty of care is very high and that this duty of care cannot be delegated. In addition, the case law further provides that Persons Responsible are responsible for their Support Personnel and the medical treatments given to their horses by their veterinarians.

j) The FEI submitted that the VRs stipulated that the administration of treatments with Controlled Medication Substances during Events must be authorised by the Veterinary Commission/Veterinary Delegate (VC/VD) before administration, using the appropriate Veterinary Form. In emergency situations where the Horse's welfare is at risk, such as a colic episode, emergency therapeutic treatments may be administered. Following such administration, a Veterinary Form 1 must be presented for retrospective authorisation and for determination,

where appropriate, of whether the Horse can continue competing at the Event. In the present case, however, no Veterinary Form was submitted for the Horse at the time of the Event or after. Further, the FEI emphasized that it was the PR's personal duty to obtain the appropriate Veterinary Form if the Horse undergoes a treatment during an Event.

- k) The fact that the veterinarian who treated the Horse was not FEI approved or the fact that the veterinarian's opinion regarding the "risk of testing positive" might not have been correct did not bare significant importance in assessing the PR's degree of fault or negligence. Namely, the PR had a responsibility to know, understand, and follow the EADCMRs and relevant Veterinary regulations. The PR should have known, since it was his personal duty, that he must obtain a Veterinary Form 1 after the Horse was treated for a colic. In addition, the FEI emphasized that, even if the Organising Committee would have called-in an FEI approved Veterinarian, that would not relieve the PR from his duty to obtain the appropriate Veterinary Form. The questionable opinion of the treating veterinarian did not diminish the level of the PR's fault or negligence, since it was his personal duty to ensure that no Controlled Medication Substance is present in the Horse's body during an Event without a valid Veterinary Form. Even more, the relevant rules stipulated that the administration of any substance to a Horse during an Event via means of injection, as in the present case, required the appropriate Veterinary Form, regardless whether or not the substance given to the Horse was listed on the FEI List.
- l) The PR in the present case failed in his duty to obtain the appropriate Veterinary Form. In failing to do so, not only did such omission result in a breach of Article 2.1.1 of the ECM Rules, but also in breach of several veterinary regulations which are in place to protect the welfare of the Horse and a level of playing field. The Horse in question was not inspected by the VC/VD due to the PR failing to submit the appropriate Veterinary Form for authorisation therefore, the VC/VD were not able to determine whether the Horse was fit or not fit to compete after receiving the treatment.
- m) Accordingly, the FEI respectfully submitted that the PR was not entitled to elimination or reduction of the period of Ineligibility under Article 10.4 and/or Article 10.5 of the ECM Rules, and that the applicable period of Ineligibility should be six (6) months.
- n) The FEI also requested that the results of the PR and Horse combination obtained in the Competition be disqualified with all resulting Consequences, including forfeiture of any related medals, points and prizes. Furthermore, since this was a case with a

Controlled Medication Substance, occurring during or in connection with an Event, and in order to safeguard the level playing field, all of the Person Responsible's individual results obtained in that Event, with any and all Horses with which the Person Responsible competed, with all consequences, including forfeiture of all medals, points and prizes, might be disqualified in accordance with Article 10.1.2 of the ECM Rules.

- o) As fairness did not dictate that no fine be levied in the case at hand, the FEI requested that a fine be imposed on the PR, and that the PR be ordered to pay the legal costs that the FEI had incurred in pursuing this matter. The FEI requested that the Tribunal fine the PR in the amount of 1,500 CHF, and order the PR to pay the legal costs of 1,500 CHF.

6. Further proceedings

- 6.1 On 5 October 2018, - upon receipt of the Case File in the instant case - the Tribunal requested the PR to inform it whether he wished for a hearing to be held; and that - in case of failure to request a hearing within the deadline provided - the PR shall be deemed to have waived his right for a hearing.
- 6.2 The PR did not request for a hearing to be held.

7. Jurisdiction

- 7.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, GRs and EAD Rules.

8. The Person Responsible

- 8.1 The PR is the Person Responsible for the Horse, in accordance with Article 118.3 of the GRs, as he was the rider of the Horse at the Event.

9. The Decision

- 9.1 As stated in Article 2.1.2 of the ECM Rules, sufficient proof of an ECM Rule violation is established by the presence of a Controlled Medication Substance in the Horse's A-Sample where the PR waives analysis of the B-Sample and the B-Sample is not analysed. The Tribunal is satisfied

that the laboratory reports relating to the A-Sample reflect that the analytical tests were performed in an acceptable manner and that the findings of the Laboratory are accurate. The Tribunal is satisfied that the test results evidence the presence of Meloxicam in the sample taken from the Horse at the Event. The PR did not contest the accuracy of the test results or the positive findings. Neither did the Owner of the Horse. The substance is classified as Controlled Medication Substance under the FEI List. The presence of Meloxicam during an event without a valid Veterinary Form is prohibited under Article 2.1 of the ECM Rules.

- 9.2 The FEI has, therefore, established an Adverse Analytical Finding and has sufficiently proven the objective elements of an offence by the PR, in accordance with Articles 3.1 of the ECM Rules.
- 9.3 In cases brought under Article 2.1 of the ECM Rules, a strict liability principle applies as described in Articles 2.1.1 of the ECM Rules. Once an ECM Rule violation has been established by the FEI, the PR has the burden of proving that he bore "No Fault or Negligence" for the rule violation as set forth in Article 10.4 of the ECM Rules, or "No Significant Fault or Negligence," as set forth in Article 10.5 of the ECM Rules.
- 9.4 However, to benefit from any elimination or reduction of the applicable sanction under Article 10.4 or 10.5 of the ECM Rules, the PR must first establish how the Controlled Medication Substance entered the Horse's system.
- 9.5 First, the Tribunal takes note of the PR's and Owner's explanations on how the Meloxicam had entered the Horse's system and was still present in the Horse's system during the Event, namely by having been injected by a veterinarian with buscopan and metacam due to the Horse suffering from a colic on 12 July 2017, *i.e.*, the night prior to the Event. Further, the Tribunal takes note of the FEI's submission with regard to whether the PR has established how the Prohibited Substance entered the Horse's system. The Tribunal finds that the PR (or the Owner on his behalf) has established, by a balance of probability, how the Meloxicam entered the Horse's system.
- 9.6 Second, the Tribunal needs to examine the question of "No Fault or Negligence" or "No Significant Fault or Negligence" for the rule violation. To start with the Tribunal finds that in order for No Fault of Negligence to apply, the PR has to establish that he did not know or suspect, and could not have reasonably known or suspected that the Horse's system contained a Controlled Medication Substance. The Tribunal however finds, that the PR, according to this own statement, was aware of the injections given to the Horse by the veterinarian. In the Tribunal's view he could

therefore have known, or at least suspected that the medications injected might contain a Controlled Medication Substance. The PR nonetheless accepted that risk when riding the Horse during the Event, without making any further inquiries on the medicines, and requesting a Veterinary Form for its use.

- 9.7 While the Tribunal find that it is unfortunate that the veterinarian treating the Horse provided inaccurate information with regard to the prohibition of the medications injected, the Tribunal also finds that the PR's duty of care goes beyond merely relying on information received by veterinarians. There is also a universal legal principle holding that a person who is unaware of a law may not escape liability for violating that law merely because he was unaware of its content.⁴
- 9.8 In line with its previous decisions, the Tribunal finds that the PR was expected to conduct – in addition to the information received by the veterinarian – his own search (for example checking whether the substances administered are listed on the FEI List) to confirm whether the substances injected are prohibited during an event. However, the PR seemed to have merely relied on the information provided by the veterinarian, and not confirmed himself whether the substances injected to the Horse are on the FEI List, and thus prohibited either at all times or during an event without a valid Veterinary Form. In this respect, the Tribunal agrees with the FEI's view that, if the PR had made himself aware of the EADCMRs and the VRs, which seems to not have been the case, he would have known that a Veterinary Form is required in cases where a Controlled Medication Substance has been administered to a horse which is scheduled to compete at an event.
- 9.9 As a result, the Tribunal finds that the PR has been negligent with his personal duty of care in assuring that no Controlled Medication Substance was present in the Horse's system during an event without a valid Veterinary Form.
- 9.10 The Tribunal therefore comes to the conclusion that no reduction or elimination of the otherwise applicable period of Ineligibility is warranted.

10. Disqualification

- 10.1 For the reasons set out above, the Tribunal disqualifies the Horse and the PR from the Competition and the entire Event and all medals, points

⁴ "*Ignorantia juris non excusat*"

and prize money won must be forfeited, in accordance with Articles 9 and 10.1.2 of the ECM Rules.

11. Sanctions

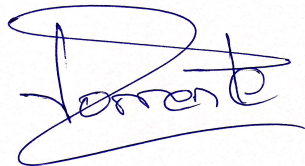
- 11.1 As a result of the foregoing, and pursuant to Articles 10.2 of the ECM Rules, the period of Ineligibility imposed on the PR shall be six (6) months.
- 11.2 The Tribunal imposes the following sanctions on the PR in accordance with Article 169 of the GRs and Article 10 of the ECM Rules:
- 1) The PR shall be suspended for a period of **six (6) months** to be effective immediately and without further notice from the date of the notification of this Decision. Therefore, the PR shall be ineligible through **11 April 2019**.
 - 2) The PR is fined **one thousand five hundred Swiss Francs (CHF 1'500,-)**.
 - 3) The PR shall contribute **one thousand five hundred Swiss Francs (CHF 1'500,-)** towards the legal costs of the judicial procedure.
- 11.3 No Person Responsible who has been declared Ineligible may, 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 10.11.1 of the ECM Rules).
- 11.4 Where a Person Responsible who has been declared Ineligible violates the rule against participation or attendance during Ineligibility, the results of any such participation shall be Disqualified and a new period of Ineligibility equal in length up to the original period of Ineligibility shall be added to the end of the original period of Ineligibility. In addition, further sanctions may be imposed if appropriate (Article 10.11.2 of the ECM Rules).
- 11.5 According to Article 168 of the GRs, the present decision is effective from the day of written notification to the persons and bodies concerned.

11.6 In accordance with Article 12 of the ECM Rules the Parties may appeal against this decision by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.

V. DECISION TO BE FORWARDED TO:

- a. The person sanctioned: Yes**
- b. The President of the NF of the person sanctioned: Yes**
- c. The President of the Organising Committee of the Event through his NF: Yes**
- d. Any other: No**

FOR THE PANEL



Mr. Cesar Torrente, one member panel