

DECISION of the FEI TRIBUNAL

dated 22 January 2020

Positive Anti-Doping Cases No.: 2018/BS17

Horse: FIFTY SHADES **FEI Passport No:** 104ZG11/USA

Person Responsible/NF/ID: Andrea Torres Guerreiro/COL/10114368

Event/ID: CSI4* - Tryon NC (USA), 2018_CI_0230_S_S_01

Date: 5 – 10 June 2018

Prohibited Substance: Boldenone, Boldenone Sulfate

I. COMPOSITION OF PANEL

Mr. Chris Hodson QC, one member panel

II. 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 2018, Arts. 118, 143.1, 161, 168 and 169 ("**GRs**").

Internal Regulations of the FEI Tribunal, 3rd Edition, 2 March 2018 ("**IRs**").

FEI Equine Anti-Doping and Controlled Medication Regulations ("**EADCMRs**"), 2nd edition, effective 1 January 2018.

FEI Equine Anti-Doping Rules ("**EAD Rules**"), 2nd edition, effective 1 January 2018.

Veterinary Regulations ("**VRs**"), 14th edition 2018, effective 1 January 2018, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

2. Person Responsible: Ms. Andrea Torres Guerreiro.

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."

EAD Rules Art. 2.1.1: "It is each *Person Responsible's* personal duty to ensure that no *Banned Substance* is present in the *Horse's* body. *Persons Responsible* are responsible for any *Banned Substance* found to be present in their *Horse's Samples*, even though their *Support Personnel* will be considered additionally responsible under Articles 2.2 – 2.8 below where the circumstances so warrant. It is not necessary that intent, fault, negligence or knowing *Use* be demonstrated in order to establish an *EAD Rule* violation under Article 2.1."

EAD Rules Art. 7.6.1: "At any time during the results management process the *Person Responsible* and/or member of the *Support Personnel* and/or *Owner* against whom an EAD Rule violation is asserted may admit that violation at any time, waive a hearing and may agree with the FEI on the Consequences that are mandated by these EAD Rules or (where some discretion as to Consequences exists under these EAD Rules) that have been offered by the FEI. The agreement shall be submitted to the FEI Tribunal for approval and, where approved by the *FEI 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. Such agreement shall be considered as a decision for the case and will be reported to the parties with a right to appeal under Article 12.2.2 and published as provided in Article 13.3."

III. DECISION

1. The Parties

- 1.1 The Person Responsible ("**PR**"), Ms. Andrea Torres Guerreiro, is a jumping rider for Colombia.

- 1.2 The Fédération Equestre Internationale (the "**FEI**" and together with the PR, the "**Parties**"), is the sole IOC recognised international federation for equestrian sport. The FEI is the governing body of the FEI equestrian disciplines (Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, Reining, Para-Equestrian).

2. Factual Background

- 2.1 The PR competed with the horse FIFTY SHADES (the "**Horse**") at the CSI4* in Tryon NC, in the United States of America (USA), from 5 to 10 June 2018 (the "**Event**").
- 2.2 During the Event in-competition samples (urine and blood) were collected from the Horse. Subsequent analysis of the sample revealed the presence of Boldenone in the blood sample and Boldenone Sulfate in the urine sample.
- 2.3 On 23 July 2018, the FEI notified the PR of an adverse analytical finding and alleged a violation of Article 2.1 of the EAD Rules. Together with the Notification Letter the PR was informed that she was provisionally suspended, and provided with the opportunity to request for a Preliminary Hearing.

3. Further proceedings

- 3.1 On 15 January 2020, the FEI informed the Tribunal that the Parties had reached an Agreement in the context of the Case 2018/BS17 FIFTY SHADES, and submitted the Agreement to the Tribunal for approval and incorporation into a Decision of the Tribunal in accordance with Article 7.6.1 of the EAD Rules. Further, on 17 January 2020, the FEI submitted an updated version of the Agreement between Parties.
- 3.2 On 19 January 2020, the FEI Tribunal Chair nominated a panel for the case at hand. Both Parties confirmed that they accepted the constitution of the panel.

4. Agreement between Parties

- 4.1 On 15 January 2020 and on 17 January 2020, the Parties reached the following Agreement:

*** Quote***

- 3 NOW, THEREFORE, THE PARTIES HAVE AGREED TO THE FOLLOWING TERMS FOR THE CLOSURE OF THE PROCEEDINGS:**

- 3.1 In the matter of the Adverse Analytical Finding related to the samples, which were collected from the PR's horse FIFTY SHADES (the "Horse") at the CSI4* in Tryon NC (USA) from 6 to 10 June 2018 (the "Event"), the PR, Ms. Andrea Torres Guerreiro and the FEI agree in accordance with 7.6.1 EAD Rules on the following:
- (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 promptly admitted the rule violation;
 - (c) The PR has established on a balance of probabilities how the Boldenone and its metabolite entered the Horse's system;
 - (d) The PR has been at fault or negligence for the Rule Violation; however she promptly admitted the rule violation, the parties therefore agree that the period of ineligibility for this violation shall be twenty (20) months starting from the date of the sample collection 9 June 2018 and run until 8 February 2020;
 - (e) In accordance with Article 10.8.3 of the EAD Rules, this violation of the EAD Rules counts as a prior violation for the purpose of Article 8 (Multiple Violations) of the EAD Rules;
 - (f) In accordance with EAD Rules Articles 9.1 and 10.1.2 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;
 - (g) In addition, all the results obtained by the PR from 9 June 2018 until dated 23 July 2018, when the provisional suspension was imposed, shall be disqualified, with all resulting consequences, including forfeiture of any related medals, points and prizes;¹
 - (h) The PR shall pay a fine of 3 000 CHF;
 - (i) Each party will bear its own legal and other costs incurred in connection with these proceedings;
 - (j) No further Sanctions than those mentioned in this agreement should apply to the PR in relation to the above mentioned case.
 - (k) The PR is to fulfil the education requirement; support the FEI in its anti-doping campaign and to actively engage in Athlete anti-

¹ This clause was added to the updated version of the Agreement between Parties provided to the Tribunal on 17 January 2020. The PR confirmed agreeing to this additional clause via Email.

doping education. In detail, she agrees to be featured/participate in a testimony for the FEI education material/outreach events especially in the USA and Colombia.

- 3.2 The parties hereby kindly request that the FEI Tribunal issue a Decision incorporating the terms of this agreement.
- 3.3 The parties acknowledge and agree that, pursuant to Article 13.3 of the EAD Rules, the Decision will be made public by the FEI.
- 3.4 The terms set out in this agreement have been agreed as a full and final settlement of all claims relating to the subject-matter of these proceedings. Accordingly, any and all other claims for relief that any party might otherwise have made against another in relation to the subject-matter of these proceedings are released and discharged unconditionally, and they may not be pursued in any form hereafter.
- 3.5 This agreement is made in accordance with Article 7.6.1 of the EAD Rules and is subject to the approval of the FEI Tribunal. The Agreement will be included in a Final Decision of the FEI Tribunal. Consequently, it will be communicated to the Parties with a right of appeal in accordance with Article 12.2 of the EAD Rules.

End Quote

- 4.2 Furthermore, the Parties provided the following Case Summary and Full Reasoning for the case at hand:

"1 CASE SUMMARY

- 1.1 Ms. Andrea Torres Guerreiro (FEI ID 10114368), the Person Responsible ("PR") in accordance with Article 118.3 of the FEI General Regulations, is a jumping rider for Colombia.
- 1.2 The Fédération Equestre Internationale (the "FEI" and together with the PR, the "Parties"), is the sole IOC recognised international federation for equestrian sport. The FEI is the governing body of the FEI equestrian disciplines (Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, Reining, Para Dressage and Para Driving).
- 1.3 The PR participated with the horse FIFTY SHADES (FEI ID: 105DZ83) (the "Horse") in the CSI4* in Tryon NC (USA) from 6 to 10 June 2018 (the "Event"). As a member of the Colombian Equestrian Federation (the "COL NF"), the latter being a member of the FEI, the PR was bound by the EADCM Regulations.

- 1.4 The Horse was selected for testing on 9 June 2018. Blood and urine samples were collected from the Horse and sent to the FEI approved LGC Newmarket Road Laboratory ("LGC") in Cambridgeshire, UK for analysis.
- 1.5 Analysis of the urine sample revealed the presence of Boldenone Sulfate and analysis of the blood sample revealed the presence of Boldenone. Boldenone is an anabolic steroid used for performance enhancement and is classified as a Banned Substance under the FEI Equine Prohibited Substances List. Boldenone Sulfate is the major metabolite of Boldenone.
- 1.6 By notification letter dated 23 July 2018, the FEI informed the PR, in her capacity as the Person Responsible, and the COL NF of a violation of Article 2.1 (*The Presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample*) of the FEI Equine Anti-Doping Rules (the "EADRs") based on the Laboratory's adverse analytical finding of Ergonovine² in the Horse's Sample collected at the Event. The FEI also provisionally suspended the PR from the date of this letter in accordance with Art 7.4.1 of the EADR. (Exhibit 1-2)
- 1.7 On the same day, a Provisional Suspension of two months was imposed on the Horse until 22 September 2018.
- 1.8 In the notification letter of 23 July 2018, the PR was informed of her right to request the Horse's B Sample to be analysed.
- 1.9 The PR waived the right to the B-Sample Analysis and promptly admitted the violation on 27 July 2018.

2 THE FULL REASONING OF THE CASE

2A. How the substance entered the body of the Horse

- 2.1 The PR has provided the following explanations: (Exhibit 3)
- 2.2 *"My father, that at the time was in Honduras giving a jumping clinic, was discussing the kissing spine condition of my horse with one of his old veterinary friends that had treated many race horses with this condition. He told me that horses with that condition tended to lose muscle on their backs so it could create soreness. He use this product named Ganabol and was an off the counter, non-prescription medicine sold at any veterinary pharmacy in Tegucigalpa, city where he was. He suggested me a doses of 2 cc in the muscle every six months. And*

² The Tribunal notes that the Banned Substance in the present case concerns Boldenone and its metabolite Boldenone Sulfate.

also suggested to keep using the electromagnetic blanket daily. My father though it was a good idea to try it. Then after the winter show in Florida were over and we were going to take few weeks off then my father gave the medicine the last week of March and the idea was to repeat the 2 cc doses at the end of September. Of course after this incident we will never again use this product in any of our horses again. This was truly and honest mistake. As I told you before, the welfare of my horses are priority."

- 2.3 The GANABOL was administered the last week of March. It is not unusual that anabolic steroids such as Boldenone stays in the horse's system for an extended period of time, even up to several months. It is therefore plausible that the injection in the end of March still can be present by the beginning of June, and lead to the positive finding of Boldenone and Boldenone Sulfate.
- 2.4 The PR herself, injected the Horse with GANABOL, since she knows how to treat minor vet issues on her own, on the recommendation of a veterinarian that her father trusted.
- 2.5 The FEI is satisfied that the PR by her explanations and provided evidence has established the source of the Boldenone and its metabolite in the Horse's sample. The parties therefore agree that the injection of GANABOL in the end of March is the source of the positive finding of Boldenone and Boldenone Sulfate in the Horse's sample.

2B. Fault and Negligence for the rule violation

- 2.6 Ms. Torres Guerreiro has provided statements (Exhibits 3-5) where she explains:
- 2.7 *"I want you to be assured that I have stable procedures and policies to make sure that the anti-doping rules are followed and to avoid my horses coming into contact with Prohibited Substances. I have always relied primarily on veterinarians to administer any necessary medication to our horses and since my violation I recognize that there can be no exceptions to this rule. Further, I routinely check the Equine Prohibited Substances List on my App and I keep a Medication Logbook for all my horses. Since my violation, I have taken several anti-doping medication trainings to educate myself and have spent several hours learning about the resources on anti-doping that the FEI has readily available."*
 - This year was very important because the PR was trying to qualify for the WEG with her horse Fifty Shades in representation of her country Colombia next September.

- She would never jeopardize her chances of accomplishing her goal to be a part of the Colombian team by using FEI prohibited substances.
- The welfare of the PR's horses is the priority, and this was also the reason for trying alternative treatment on the Horse's kissing spine disease.
- The veterinarian that the PR uses for all USEF competitions, is also an FEI vet and he has been doing most of treatments for the PR's FEI horses. The vet updates the PR with medications and treatments. The PR normally always checks with her vet, especially since the vet is the one supplying the medications to the PR in the first place.
- For the occasion of the violation, since it was an over the counter medication bought in Honduras and recommended by a local vet, the PR did not check with her normal vet. She simply trusted the vet her father had recommended, and also believed it was an allowed treatment.
- The reason this violation happened and was not prevented by the PR's stable procedures was that she was misled by the fact that the product was recommended by a veterinarian that her father held in high esteem.
- The PR has provided the veterinary records of the Horse. (Exhibit 6)
- The steps now implemented by the PR to avoid a repeat of breach of rule and regulation are that no future medications will be given to her horses without the control and knowledge of their FEI vet. She will also keep herself informed of annual changes in the veterinary medication rules by USEF and specialty FEI, and the FEI Clean Sport App.

2.8 The facts of the case show that the PR has been highly at fault for the rule violation, since she did not check the ingredients of the GANABOL nor check it with her normal veterinarian before using it on the Horse. In addition, the PR injected the GANABOL herself, despite not being a veterinarian.

2.9 However, the PR admitted the violation promptly and has been very cooperative throughout the whole process and the FEI highly appreciate such attitude.

2C. Conclusions of the Parties

- 2.10 Based on the evidence and documentation supplied by the PR, the parties conclude that the source of the Boldenone and its metabolite in the Horse's sample, is the injection of GANABOL made by the PR herself in the end of March 2018.
- 2.11 The PR has been at fault and negligence for the Rule Violation, since she did not check the ingredients of the GANABOL, nor did she check with her veterinarian before administering it to the Horse. However, she promptly admitted the rule violation, and clearly explained the situation and the honest mistake made by her.
- 2.12 The parties therefore agree that the standard two (2) years ineligibility period for the presence of a Banned Substance should be reduced by four (4) months based on prompt admission, in accordance with 10.6.3 EADR.
- 2.13 Due to delays not attributable to the PR, in accordance with 10.10.2 EADR, the ineligibly period should start as early as the date of sample collection, namely 9 June 2018.
- 2.14 The period of ineligibility for this violation shall therefore be twenty (20) months.
- 2.15 In relation to the fine, the PR has provided circumstances and facts that fairness allows for a deviation from the standard fine in accordance with the FEI Guidelines.
- 2.16 In addition, the PR has volunteered to support the FEI in its anti-doping campaign and to actively engage in Athlete anti-doping education. In detail, she agrees to be featured/participate in a testimony for the FEI education material/outreach events especially in the USA and Colombia.
- 2.17 Article 7.6.1 of the EAD Rules permits for an agreement between the parties, subject to FEI Tribunal approval."

5. Jurisdiction

- 5.1 The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 159 of the GRs, the EADCMRs, as well as Article 18 of the IRs.
- 5.2 As a member of the Colombian National Federation, the latter being a member of the FEI, the PR was bound by the EAD Rules.

- 5.3 Further, Article 7.6.1 of the EADCMRs allows for agreements between parties.
- 5.4 As a result, the Tribunal finds that it has jurisdiction to issue this Decision.

6. Approval of Agreement

- 6.1 Having reviewed the Case Summary, the Full Reasoning for the Agreement and terms of the Agreement, the Tribunal has – among others – taken note, that the FEI accepts that GANABOL was administered to the Horse in the last week of March 2018, and that the GANABOL administration was the source of the Banned Substance(s). Hence, the PR has established on a balance of probability how the Prohibited Substances entered the Horse’s system.
- 6.2 Furthermore, the Tribunal notes that the Parties agreed that the PR has been at fault or negligence for the Rule violation. Given that any internet search for the product GANABOL would raise serious concerns of the product, and clearly inform any person that the product contains Boldenone, the Tribunal is of the view that the PR’s fault for the Rule violation was high.
- 6.3 Moreover, the Tribunal takes note that the FEI accepted that the PR promptly admitted the Rule violation, and the disqualification of the results starting from the sample collection. The Tribunal appreciates the cooperation of the PR in the present case.
- 6.4 Following from Article 10.6.3 of the EAD Rules, where a PR promptly admits the asserted anti-doping rule violation after being confronted by the FEI, and also upon the approval and the discretion of the FEI, the PR may receive a reduction in the period of Ineligibility down to a minimum of one half of the otherwise applicable period of Ineligibility, depending on the seriousness of the violation and the PR’s degree of fault.
- 6.5 The Parties agreed to a reduction of the period of Ineligibility of four (4) months, which falls within the provision for prompt admission.
- 6.6 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 Agreement, and to revise the results, including team results if applicable, of the Event accordingly. Further, this Decision shall terminate the present case 2018/BS17 FIFTY SHADES.

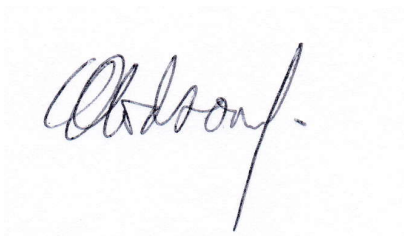
7. Decision

- 1) The Tribunal rules that the Agreement executed by the FEI and the PR, Ms. Andrea Torres Guerreiro, concerning the case 2018/BS17 FIFTY SHADES is hereby ratified by the Tribunal with the consent of the Parties and its terms set out in Article 4 above are incorporated into this Decision.
- 2) This Decision is subject to appeal in accordance with Article 12.2 of the EAD Rules. An appeal against this Decision may be brought by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.
- 3) This Decision shall be published in accordance with Article 13.3 of the EAD Rules.

IV. DECISION TO BE FORWARDED TO:

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

FOR THE PANEL

A handwritten signature in black ink, appearing to read "Chris Hodson", is centered on the page. The signature is written in a cursive, flowing style.

Mr. Chris Hodson QC, one member panel