



DECISION of the FEI TRIBUNAL

dated 28 September 2018

Positive Controlled Medication Case No.: 2018/CM08

Horse: ASIATICA DES PINS

FEI Passport No: 103LA85/QAT

Person Responsible/NF/ID: Abdulla Mahmood Abdulla DARBAN/10044343/IRI

Event/ID: CEI1* 100 – Doha, Mesaieed (QAT)/2018_CI_1615_E_S_02_01

Date: 17 March 2018

Prohibited Substance: Triamcinolone Acetonide

I. COMPOSITION OF PANEL

Ms. Constance Popineau (FRA), 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 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 Controlled Medication Regulations ("**ECM 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: Mr. Abdulla Mahmood Abdulla DARBAN.

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 ASIATICA DES PINS (the "**Horse**") participated at the CEI1* 100 in Doha, Mesaieed, Qatar, on 17 March 2018 (the "**Event**"), in the discipline of Endurance. The Horse was ridden by Mr. Abdulla Mahmood Abdulla Darban who is the Person Responsible in accordance with Article 118.3 of the GRs (the "**PR**"). The PR is an Iranian national; however, his administering NF is the National Federation of Qatar ("**QAT-NF**").
- 1.2 Blood samples were taken from the Horse during the Event, on 17 March 2018.
- 1.3 Analysis of the blood sample number 5551330 were performed at the FEI-approved Laboratory, the Hong Kong Jockey Club (HKJC), in Hong Kong (the "**Laboratory**"). The analysis of the blood sample revealed the presence of Triamcinolone Acetonide.
- 1.4 The Prohibited Substance detected is Triamcinolone Acetonide. Triamcinolone Acetonide is a corticosteroid with anti-inflammatory effects. This substance is classified as a 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 Triamcinolone Acetonide in the Horse's sample gives rise to a Controlled Medication Rule violation under the EADCMRs.

2. The Further Proceedings

- 2.1 On 23 April 2018, the FEI Legal Department officially notified the PR through the Iranian National Federation ("**IRI-NF**") and the QAT-NF,

of the presence of the Prohibited Substance following the laboratory analysis, the possible rule violation and the possible consequences.

- 2.2 In the Notification Letter, the PR was also informed that due to an earlier Banned Substance Rule violation (Case 2015/BS01 LUNATICA) where the PR was suspended for two (2) years, the administrative sanction was not available in the present case.
- 2.3 Furthermore, the PR was informed that – as a result of the previous violation – the period of Ineligibility in the present case shall be the greater of (a) three months; (b) one-half of the period of Ineligibility imposed for the first Rule violation; or (c) twice the period of Ineligibility otherwise applicable to the second Rule violation treated as if it were a first violation.

3. The B-Sample analysis

- 3.1 Together with the Notification Letter of 23 April 2018, 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 On 26 April 2018, the PR and the Owner, who is also the registered Trainer of the Horse, submitted the following explanations through the FEI Questionnaire.
- 4.2 In summary, they stated that the Horse was stabled in a public stable and was kept under supervision of a groom at all times. Furthermore that, while the Horse was not administered any Prohibited Substances in the year prior to the Event, the Horse was treated on 26 February 2018 by Dr. Endrigo Pompermayer and that the substance in question was administered to the Horse. In this regard, they provided a Veterinary Medical Prescription of the Equine Veterinary Hospital Racing & Equestrian Club of Doha, Qatar, which states that the Horse was diagnosed with a bilateral carpalis and distal tarsitis and was treated on 26 February with (i) Intra Log; (ii) Epicaine; (iii) Xylazine;

and (iv) Phenyl. Regarding the Intra Log administration the Veterinary Medical Prescription records as follows: Doses – 1 Boz.; Way of administration – IA; Frequency of administration – one. The Veterinary Medical Prescription further states that the recommended delay in days for racing performance is sixteen (16) days.

- 4.3 In addition, the Owner stated that the rider had nothing to do with “*This*”, *i.e.*, the administration of the Prohibited Substance to the Horse, and that it was all his responsibility as trainer and Owner.
- 4.4 Finally, concerning which steps they now implemented to avoid a repeat of breach of Rule and/or Regulation, they explained that they will follow the recommendation of the Treating Veterinarian.

5. Written Response by the FEI

- 5.1 On 23 August 2018, the FEI provided its Response to the explanations provided by the PR and the 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 Triamcinolone Acetonide, and constituted “sufficient proof” of the violation of Article 2.1 of the ECM Rules. In any event, neither the PR nor the Owner did dispute the presence of the Triamcinolone Acetonide 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 Substance 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 Triamcinolone Acetonide entered the Horse's system. The Owner submitted an explanation on how the Triamcinolone Acetonide entered the Horse's system, namely that it was administered on 26 February 2018 by Dr. Endrigo Pompermayer after he diagnosed the Horse with bilateral carpalis and distal tarsitis. The FEI ascertains that the active ingredient of the Intra Log medication was indeed Triamcinolone Acetonide.
- d) Regarding detection time and withdrawal time for the Prohibited Substance Triamcinolone Acetonide the FEI submitted as follows:

"The detection time for Triamcinolone Acetonide is 168 h (7 days), for 12 mg in one joint, intra articular (i.a.) as indicated in the FEI List of Detection Times. Detection time is the approximate period of time for which a drug (or its metabolite) remains in a horse's system, such that it can be detected by the laboratory and the FEI provide a list of some detection time only as a guide. A detection time is not the same as a withdrawal time. The withdrawal time for a drug must be decided upon by the treating veterinarian and is likely to be based on the detection time and an added safety margin. This margin should be determined using professional judgment and discretion to allow for individual differences between horses such as size, metabolism, degree of fitness, recent illness or disease etc. to be taken into consideration. The safety margin in most cases should be at least multiplied with 2 i.e. in the case at hand 14 days. The Horse was administered with Intra log intra

particularly on 26 February 2018 and was sampled on 17 March 2018. From the day of administration of the medication to the day of sampling 19 days have passed.

However, the FEI acknowledges that Triamcinolone Acetonide is a long-lasting substance and that there is always a risk of leakage from an intra-articular injection. The risk of leakage increases additionally when injecting multiple joints. Furthermore, if Triamcinolone Acetonide is injected in the surrounding tissue instead of the joint, the detection time may be prolonged to up to sixty (60) days. The FEI at this moment is not aware of the exact amount of the substance that was administered to the Horse nor if the treatment was applied to only one or multiple joints, but the FEI acknowledges the possibility that the positive finding of Triamcinolone Acetonide could be, on a balance of probability, attributed to the administration of the substance on 26 February 2018. The FEI however, encourages the Owner to provide a more detailed description of the treatment i.e. the administered amount of the substance, number of treated joints etc. in order to bring more clarity."

- e) Furthermore, the FEI submitted that, since at that point in time the PR has not provided any other explanation for the positive finding and the existent explanation was scientifically plausible, the FEI was of the opinion that it was more plausible than not, on a balance of probability, that the Triamcinolone Acetonide entered the Horse's system as explained by the PR and Owner. The FEI however left it for the Tribunal to evaluate if the PR has fulfilled the threshold requirement.
- f) 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".
- g) 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".

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

- h) Furthermore, the Sole Arbitrator in the *Royal des Fontaines* case³ 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 appraised 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"

The Sole Arbitrator respectfully agrees."

- i) 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."*

- j) 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."

- k) 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

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

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.

- l) In the case at hand, the FEI ascertained that the Horse was treated by the Treating Veterinarian on 26 February 2018 with Intra Log medication which contains Triamcinolone Acetonide. According to the Veterinary Medical Prescription the Treating Veterinarian determined the withdrawal time for the pertinent treatment to be 16 days. The Horse was administered with Intra log intra-articularly on 26 February 2018, and the Horse was sampled on 17 March 2018; hence 19 days later. The FEI acknowledged the additional 5 days of safety margin.
- m) However, it was a well-established fact among veterinarians that when a joint was injected, there was always a risk of leakage and it needed to be taken into consideration when deciding the withdrawal time for a specific drug. It was also a well-established fact that there was a difference in detection time for a substance depending on the route of administration, *i.e.*, intra-articular (i.a.), intravenous (i.v.), intra-muscular (i.m.), or subcutaneous.
- n) Veterinarians providing services to sports horses should be able to inject a joint correctly and accurately, as well as to convey to the client, the potential risks of the procedure. The PR should be precautious about doing such injections and should choose wisely a veterinarian that can perform such injections without any risks taken.
- o) In addition, Triamcinolone Acetonide was a drug with long lasting effects in the Horse's system, and there would be other alternative drugs with similar effects that were not as long lasting as Triamcinolone Acetonide. The PR could have therefore chosen a "less risk" treatment knowing that he was going to compete at the Event.
- p) The FEI was of the position that so far in the proceedings the PR had not established No (Significant) Fault or Negligence in accordance

with Articles 10.4 and 10.5 of the ECM Rules. As a consequence the present ECM Rule violation remained and counted as a second violation of the PR and Article 10.8 in combination with para. 2 of Article 10.8.2 of the ECM Rules applied in the present case. Accordingly, the FEI respectfully submitted that the applicable period of Ineligibility should be one (1) year.

- q) 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.
- r) 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 2,000 CHF, and order the PR to pay the legal costs of 1,500 CHF.

6. Further proceedings

- 6.1 On 12 September 2018, the PR further explained that the Owner had requested him to ride the Horse at the Event, which he did. Further, that he had no idea that the Horse had been administered a drug prior to the Event. If he had known, he would not have ridden the Horse.
- 6.2 Finally, the PR argued that the Owner had confirmed that the PR was not responsible for the drug administered to the Horse, and that he always abided to FEI rules since he joined equestrian rides.

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.
- 8.2 In this respect, the Tribunal wishes to highlight that the PR as the rider remains the "main" Person Responsible for the Horse in the case at hand. In addition, in accordance with Article 118.3 of the GRs, the Owner and other Support Personnel, including veterinarians, may be regarded as additional Persons Responsible. However, the present decision concerns only the alleged rule violation of the PR.

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 Tiludronic acid 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. In fact, both individuals confirmed that the Horse had been administered the Tiludronic acid prior to the Event. This substance is classified as Controlled Medication Substance under the FEI List. The presence Tiludronic acid 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 Substances entered the Horse's

system.

- 9.5 The Tribunal takes note of the PR's and Owner's explanations on how the Triamcinolone Acetonide entered the Horse's system, namely that on 26 February 2018 the Horse was administered via intra-articular route the product Intra Log containing Triamcinolone Acetonide by Dr. Endrigo Pompermayer after he diagnosed the Horse with bilateral carpalis and distal tarsitis. The Tribunal furthermore takes note that the FEI ascertains that the active ingredient of the Intra Log medication was indeed Triamcinolone Acetonide. Moreover, the Tribunal takes note of the FEI's submission regarding detection times and withdrawal times of this Prohibited Substance, the recommended withdrawal time of the treating veterinarian, and the FEI's explanation regarding potential leakage of intra-articular administrations – such as in the case at hand –, which the Tribunal understands ultimately prolong the expected/recommended withdrawal times. Finally, the Tribunal takes also note of the FEI's submission with regard to whether the PR has established how the Prohibited Substance entered the Horse's system, namely arguing that since the existent explanation was scientifically plausible, the FEI was of the opinion that it was more plausible than not, on a balance of probability, that the Triamcinolone Acetonide entered the Horse's system as explained by the PR and Owner.
- 9.6 The Tribunal however finds that, ultimately, it does not have to decide in the present case whether the PR has fulfilled this first hurdle of establishing on a balance of probability, as required under the ECM Rules, how the Prohibited Substance entered the Horse's system. The Tribunal comes to this conclusion for the reasons as follows.
- 9.7 In accordance with Article 2.1.1 of the ECM Rules, the Tribunal considers that it is the PR's personal duty to ensure that no Controlled Medication Substance is present in the Horse's body during an event – such as the Event – without a valid Veterinary Form. The Tribunal finds that the PR has acted at fault, or at least highly negligent in case he was not aware of the administration of the product containing a Prohibited Substance, as claimed by the PR.
- 9.8 To start with, the Tribunal takes note that the PR did not provide any explanations concerning the steps taken to avoid that no Controlled Medication Substance entered the Horse's body. In line with its previous decisions, the Tribunal holds that the PR cannot be discharged from this duty – his personal duty as a rider – even when not having been in charge of preparing the Horse, and even when not having had any connection to the Horse prior to the Event. It is the PR's duty as a competitor to make inquiries whether the Horse was

free of Prohibited Substances, and put measures in place to assure that he is informed of all medications administered to the Horse. This seems to however not have been the case in the case at hand; at least the PR has not established anything to the contrary.

- 9.9 In addition, the Tribunal finds that the Fault/Negligence of the PR in the case at hand has to be considered even higher given the previous rule violation of the PR. As a result, the PR should have been even more aware and cautious of the risks and consequences of Prohibited Substances entering a horse's system. Thus, the Tribunal would expect that such a rider puts even more measures in place in order to avoid a repeated rule violation, which seems to have not been the case in the case at hand; at least the PR has not established anything to the contrary.
- 9.10 Accordingly, the Tribunal finds that the PR has acted at fault/highly negligent in performing his duties as competitor. The Tribunal therefore comes to the conclusion that no reduction or elimination of the otherwise applicable period of Ineligibility is warranted.
- 9.11 In accordance with Article 10.8 of the ECM Rules, the period of Ineligibility in the present case shall be the greater of (a) three months; (b) one-half of the period of Ineligibility imposed for the first Rule violation; or (c) twice the period of Ineligibility otherwise applicable to the second Rule violation treated as if it were a first violation. Thus, the period of Ineligibility shall be one (1) year.
- 9.12 The Tribunal therefore decides to impose a period of Ineligibility of one (1) year.

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 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 and 10.8 of the ECM Rules, the period of Ineligibility imposed on the PR shall be one (1) year.

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 **one (1) year** to be effective immediately and without further notice from the date of the notification of this Decision. Therefore, the PR shall be ineligible through **27 September 2019**.

2) The PR is fined **two thousand Swiss Francs (CHF 2'000,-)**.

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



Ms. Constance Popineau, one member panel