

DECISION of the FEI TRIBUNAL
dated 23 March 2020

Case: 2018/CM20

Horse/Passport: AL JARRI/105YE09/UAE

Person Responsible/ID/NF: Ali Mubarak Salem Mohd BIN ALLOOBA/10102700/
UAE

Trainer/ID/NF: Salman Ali Al SABRI/10018332/UAE

Event/ID: CEI2* 120 - Dubai/2018_CI_1885_E_S_01

Date of Event: 14.11.2018

Prohibited Substance(s): Phenylbutazone, Oxyphenbutazone and
Dexamethasone

I. COMPOSITION OF PANEL

Mr. José A. Rodriguez Alvarez, 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 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. Ali Mubarak Salem Mohd Bin Allooba.

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's* 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."

ECM Rules Art. 7.6.1: "In cases where the Administrative Procedure, as set out in Article 8.3 below, is not available, at any time during the results management process the *Person Responsible* and/or member of the *Support Personnel* and/or *Owner* against whom an anti-doping 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 ECM Rules or (where some discretion as to Consequences exists under these ECM 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. Parties

- 1.1 The Person Responsible ("PR"), Mr. Ali Mubarak Salem Mohd Bin Allooba, is a rider for the United Arab Emirates (UAE).
- 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. Further proceedings

- 2.1 On 17 December 2018, the FEI notified the PR of the positive findings, and provisionally suspended the PR from the date of notification.
- 2.2 On 18 June 2019, a Preliminary Hearing Panel decided to lift the Provisional Suspension of the PR as of 18 June 2019, midnight CET.
- 2.3 On 12 March 2020, the FEI informed the Tribunal that the Parties had reached an Agreement in the context of the Case 2018/CM20 AL JARRI and submitted the Agreement (together with the Case Summary and the Full Reasoning for the Agreement, as well as the Annexes outlined throughout this Decision) to the Tribunal for approval and incorporation into a Decision of the Tribunal in accordance with Article 7.6.1 of the EADCMRs.

3. Agreement between Parties

- 3.1 The Parties reached the following Agreement:

*** Quote***

3 NOW, THEREFORE, THE PARTIES HAVE AGREED (SUBJECT ONLY TO THE APPROVAL OF THE FEI TRIBUNAL) 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 AL JARRI at the CEI2* 120 in Dubai, UAE on 14 November 2018, the PR and the FEI agree in accordance with 7.6.1 ECM Rules on the following:
 - (a) The PR admits the violation of Article 2.1 of the ECM Rules (*The presence of a Controlled Medication Substance and/or its*

Metabolites or Markers in a Horse's Sample);

- (b) The PR established on a balance of probabilities how Phenylbutazone, Oxyphenbutazone and Dexamethasone entered the Horse's system;
 - (c) The PR bears fault for the Rule Violation and the applicable period of Ineligibility shall be six (6) months, taking into account the already served period of provisional suspension;
 - (d) In accordance with Articles 9.1 and 10.1.2 of the ECM Rules 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;
 - (e) The PR shall pay a fine of 3`000 CHF;
 - (f) Each party will bear its own legal and other costs incurred in connection with these proceedings;
 - (g) No other Sanctions will apply in this case;
 - (h) This violation of the ECM Rules shall be considered a prior violation for the purpose of Multiple Violations in accordance with Article 10.8 of the ECM Rules.
- 3.2 This agreement is made in accordance with Article 7.6.1 of the ECM 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 ECM Rules.
- 3.3 The parties acknowledge and agree that, pursuant to Article 13.3 of the ECM Rules, the Decision will be made public by the FEI. 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.

End Quote

- 3.2 The Parties submitted the following Case Summary and Reasons:
- "2.1 Mr. Ali Mubarak Salem Mohd Bin Allooba (FEI ID 10102700), the Person Responsible ("PR") in accordance with Article 118.3 of the FEI General Regulations, is a rider for the United Arab Emirates.
 - 2.2 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).

- 2.3 The PR participated with the horse AL JARRI (FEI ID: 105YE09) (the "Horse") in CEI2* 120 in Dubai, United Arab Emirates on 14 November 2018 (the "Event"). As a member of the UAE Equestrian & Racing Federation (the "UAE-NF"), the latter being a member of the FEI, the PR was bound by the FEI EADCM Regulations, 2nd edition, changes effective 1 January 2018.
- 2.4 The Horse was selected for testing on 14 November 2018. Blood samples were collected from the Horse and sent to the FEI approved HKJC Racing Laboratory ("HKJC") in Hong Kong, China for analysis.
- 2.5 Analysis of the samples identified the presence of Phenylbutazone, Oxyphenbutazone and Dexamethasone in the blood sample. Phenylbutazone is an anti-inflammatory drug with analgesic effects. Oxyphenbutazone is a metabolite of Phenylbutazone. Dexamethasone is a corticosteroid with anti-inflammatory effect. The substances are classified as Controlled Medication Substances under the FEI Equine Prohibited Substances List.
- 2.6 The positive finding of Phenylbutazone, Oxyphenbutazone and Dexamethasone in the Horse's sample gives rise to a Controlled Medication Rule Violation.
- 2.7 By notification letter dated 17 December 2018, the FEI informed the PR, in his capacity as the Person Responsible, along with the UAE-NF of a violation of Article 2.1 (*The Presence of a Controlled Medication Substance and/or its Metabolites or Markers in a Horse's Sample*) of the FEI Equine Controlled Medication Rules (the "ECMRs") based on the Laboratory's adverse analytical finding of Phenylbutazone, Oxyphenbutazone and Dexamethasone in the Horse's Sample collected at the Event. (Exhibit 1)
- 2.8 In accordance with Art. 7.4.1 of the Equine Controlled Medication Rules (the "ECMRs") the PR was provisionally suspended as of the date of the notification letter. The provisional suspension was lifted with the FEI Tribunal's decision of 18 June 2019. (Exhibit 2)
- 2.9 The PR was provided with the right to request a B Sample analysis of the positive sample. The PR did not exercise his right to a B-sample analysis.

2.10 The PR provided his written submission alongside with the treating veterinarian's statement explaining that the Prohibited Substances entered the body of AL JARRI due to a mistake (Exhibit 3-4):

- As part of AL JARRI's routine treatment the Horse receives Phenylbutazone and Dexamethasone for 2 days after a competition or a long training;
- On 9 November 2018, AL JARRI started with a long training. After completing one loop of the long ride the Horse showed such good potential that the trainer decided to stop the training and allow the horse to participate in competition on 14 November 2018;
- The foreman however forgot to remove AL JARRI from the list of horses that had a long training. That list was then given to the treating veterinarian in order for the treating veterinarian to perform the routine treatments. The Horse should have been removed since he did not complete the long training as it was decided the horse could participate in the upcoming competition;
- Due to the above mistake, the Horse received the routine treatment of 2 gr of Phenylbutazone and 20 mg of Dexamethasone intravenously on 9 and 10 November 2018, as if he completed the long training;
- The PR and his team understands fully that Phenylbutazone and Dexamethasone are Controlled Medications that should not be used so near to the competition. It was regrettably a human mistake that all the stable staff will work very hard to avoid in the future;
- The PR will in the future continue to ask the trainer, foreman, veterinarian and support personnel about any information concerning his horse that he should be aware of before any event;
- The treating veterinarian added that AL JARRI is a healthy horse who had never been diagnosed or treated for lameness since under the care the treating veterinarian;
- In addition to the routine treatments after competitions and long trainings, AL JARRI only receives vaccinations against equine influenza, tetanus and west Nile virus twice a year;

2.11 Taking into account the detection times for Phenylbutazone (7 days) and Dexamethasone (2 days) with the added safety margin (withdrawal time) the FEI finds it scientifically plausible that the Adverse Analytical Finding of Phenylbutazone, Oxyphenbutazone and Dexamethasone can

be attributed to the treatment on 9 and 10 November 2018 that was performed on the Horse.

- 2.12 Taking into account the above and the submitted evidence, in particular the statement of the treating veterinarian, the FEI is satisfied that the PR established, on a balance of probabilities, how Phenylbutazone and Dexamethasone entered the Horse's system.
- 2.13 In evaluating the PR's level of fault or negligence, the FEI considered in particular the following:
 - (a) The Adverse Analytical Finding can be attributed to a human error, namely the foreman forgot to remove AL JARRI from the list of horses to be treated by the treating veterinarian;
 - (b) The PR, however, has a personal duty to ensure that no Prohibited Substances are present in the horse's body. That duty is non-delegable and cannot be placed on a foreman;
 - (c) The PR has not establish any specific or relevant circumstances that would justify the PR's departure from the expected standard of care.
- 2.14 Based on the above, the FEI finds the PR to be at fault for the Rule Violation. Consequently, no elimination or reduction of the period of Ineligibility is possible under Art. 10.4. or Art. 10.5 of the EDCMRs. The applicable period of Ineligibility shall therefore be six (6) months."

4. Jurisdiction

- 4.1 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.
- 4.2 As a member of the National Federation of the UAE, the latter being a member of the FEI, the PR was bound by the EADCMRs.
- 4.3 Further, Article 7.6.1 of the EADCMRs allows for agreements between parties.
- 4.4 As a result, the Tribunal finds that it has jurisdiction to issue this Decision.

5. Approval of Agreement

- 5.1 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 the PR has established the source

of the Prohibited Substances, namely the Horse being treated with Phenylbutazone and Dexamethasone on 9 and on 10 November 2018.

- 5.2 Furthermore, the Tribunal takes note that the Parties agree that the PR bears fault for the Rule violation. The Parties also agreed that the PR shall be suspended for six (6) months, which is the standard period of Ineligibility pursuant to Article 10.2 of the ECM Rules.
- 5.3 Finally, the Tribunal notes that the PR has already been provisionally suspended for six (6) months, and the Parties agreed that the Provisional Suspension shall be taken into account.
- 5.4 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 as set forth in Article 3 above. Further, this Decision shall terminate the present case 2018/CM20 AL JARRI.

6. Decision

- 1) The Tribunal rules that the Agreement executed by the FEI and the PR, Mr. Ali Mubarak Salem Mohd Bin Allooba, concerning the case 2018/CM20 AL JARRI is hereby - pursuant to Article 7.6.1 of the EADCMRs - approved by the Tribunal with the consent of the Parties and its terms are incorporated into this Decision. Namely, the Parties agreed as outlined in Article 3 above.
- 2) This Decision is subject to appeal in accordance with Article 12.2 of the ECM 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 ECM 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, consisting of a large, stylized 'J' followed by 'R' and 'A', with 'Rodríguez' and 'Álvarez' written in smaller letters below it.

Mr. José A. Rodríguez Álvarez, one member panel