

**DECISION of the FEI TRIBUNAL**  
**dated 22 April 2020**

**Case:** 2019/CM04

**Horse / Passport:** LOBITA/104TQ69/UAE

**Person Responsible/ID/NF:** Cecilia SEBBEN/10028391/URU

**Trainer/ID/NF:** Cecilia SEBBEN/10028391/URU

**Event/ID:** CEI3\* 160 – Dubai (UAE)/2019\_CI\_0489\_E\_S\_01

**Date:** 2 – 5 January 2019

**Prohibited Substance:** Flumetasone

**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 24<sup>th</sup> edition, effective 20 November 2018 ("**Statutes**"), Arts. 1.4, 38 and 39.

General Regulations, 23<sup>rd</sup> edition, 1 January 2009, updates effective 1 January 2019, Arts. 118, 143.1, 161, 168 and 169 ("**GRs**").

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

FEI Equine Anti-Doping and Controlled Medication Regulations ("**EADCMRs**"), 2<sup>nd</sup> edition, changes effective 1 January 2019.

FEI Equine Controlled Medication Rules ("**ECM Rules**"), 2<sup>nd</sup> edition, changes effective 1 January 2019.

Veterinary Regulations ("**VRs**"), 14<sup>th</sup> edition 2018, effective 1 January 2019, Art. 1055 and seq.

FEI Code of Conduct for the Welfare of the Horse.

**2. Person Responsible:** Ms. Cecilia Sebben

**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"), Ms. Cecilia Sebben, is a rider and trainer for Uruguay.

- 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 16 April 2020, the FEI informed the Tribunal that the Parties had reached an Agreement in the context of the Case 2019/CM04 LOBITA 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\*\*\*

**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:**

In the matter of the Adverse Analytical Finding related to the samples, which were collected from the PR’s horse LOBITA at the CEI3\* 160 in Dubai, UAE on 4 January 2019, the PR and the FEI agree in accordance with 7.6.1 ECM Rules on the following:

- (a) The PR admits the violations 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 Flumetasone entered the Horse’s system;
- (c) The PR bears no significant fault or negligence for the Rule Violation and taking into account the prior Rule Violation in accordance with Art. 10.8 of the EACMRs, the applicable period of Ineligibility shall be eight (8) months, commencing as of the date of the voluntary 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 Events 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 in the PR's capacity as the PR and as the registered Trainer.

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.

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 provided the following Case Summary and Reasons as part of the Agreement:

"Ms. Cecilia SEBBEN (FEI ID 10028391), the Person Responsible ("PR") in accordance with Article 118.3 of the FEI General Regulations, is an Athlete and a Trainer for Uruguay.

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).

The PR participated with the horse LOBITA (FEI ID: 104TQ69) (the "Horse") in CEI3\* 160 in Dubai, UAE, between 2-5 January 2019 (the "Event"). As a member of the Uruguayan Equestrian Federation (the

“Uruguayan NF”), the latter being a member of the FEI, the PR was bound by the FEI EADCM Regulations.<sup>1</sup>

The PR was the registered Trainer of the Horse at the time of the Event.

The Horse was selected for testing on 4 January 2019. Urine and blood samples were collected from the Horse and sent to the FEI approved HKJC Racing Laboratory (“HKJC”) in Hong Kong, China for analysis.

Analysis of the blood sample revealed the presence of Flumetasone. Flumetasone is a corticosteroid used in the treatment of immune mediated diseases and skin diseases. In addition, it is used as a treatment of inflammatory conditions, especially musculoskeletal disorders, and is used intra-articularly. The substance is classified as a Controlled Medication Substance under the FEI Equine Prohibited Substances List.

The positive finding of Flumetasone in the Horse’s sample gives rise to a Controlled Medication Rule Violation.

By notification letter dated 11 February 2019, the FEI informed the PR, in her capacity as the Person Responsible and the registered Trainer, along with the Uruguayan 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 Flumetasone in the Horse's Sample collected at the Event. (Exhibit 1)

Since the Horse and the PR had a prior Controlled Medication Rule Violation in December 2016 (Case: 2017/FT04 LOBITA) the PR was not eligible for the Administrative Procedure.

In accordance with Art. 7.4.1 of the ECMRs the PR was not provisionally suspended.

The PR was provided with the right to request the analysis of the B-sample. The PR did not exercise her right to a B-sample analysis.

The PR acknowledged the Rule Violation and provided her written submission wherein she explained how the Prohibited Substance entered the body of LOBITA (Exhibit 2-4):

- The PR is a veterinarian;

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<sup>1</sup> FEI Equine Anti-Doping and Controlled Medication Regulations 2nd edition, changes effective 1 January 2019

- This is the second time Lobita tested positive for this Controlled Medication;
- Lobita has a mild osteoarthritis on left front fetlock joint and was treated by the PR on 29 December 2018, with hyaluronic acid and flumetazone (intra-articular);
- Another horse from the same stable received similar medication and was tested negative;
- Lobita has a long period of metabolism and elimination of medications;
- Further studies will have to be made to determine the withdrawal time for Lobita in case the joint needs to be treated again in the future;
- There was no aim of cheating or benefiting in the performance of the Horse.

The PR provided a photography of the invoice for the purchased medication Flucortan and a record of the horse's treatment on 29 December 2018.

The FEI confirms that the PR is an FEI Permitted Treating Veterinarian and therefore has the necessary qualifications (license) to perform such a treatment. (Exhibit 5)

The FEI acknowledges that the medication Flucortan contains the active ingredient Flumetasone. Flumetasone is an anti-inflammatory corticosteroid acting inter alia on the locomotor system. A treatment of mild osteoarthritis with Flumetasone therefore is scientifically reasonable.

The detection time - the approximate period of time for which a medication (or its metabolite) remains in a horse's system - of a substance depends on the administered dose, the frequency and route of administration. As a general indication, a detection time for Flumetasone would be at least 2-3 days. Such detection time may be prolonged in cases of intra-articular injections as there is risk of leakage from an intra-articular injection. If a medication is injected in the surrounding tissue instead of the joint, the detection time may be prolonged significantly.

In addition, a safety margin needs to be added to the detection time establishing a withdrawal time. The withdrawal time for a medication 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 by two.

The Horse was injected with Flumetasone on 29 December 2018 and was subsequently tested on 4 January 2019, approximately 6 days after the treatment.

Taking into account in particular the route of administration of Flumetasone i.e. intra-articular in the present case, the FEI is of the opinion that the Adverse Analytical Finding could have resulted from the treatment performed on 29 December 2018.

The FEI is therefore satisfied that the PR established, on a balance of probabilities, how Flumetasone entered the Horse's system.

In evaluating the PR's fault or negligence, the FEI took into account in particular the following considerations:

- (a) The PR is aware that the substance in question is prohibited in-competition and needs to be cleared from the horse's system before the competition – the FEI acknowledges that the PR took reasonable steps to avoid committing an EADCM Rule Violation;
- (b) The PR, however, miscalculated the withdrawal time and failed to apply enough safety margin to allow the medication to fully pass the horse's body.

Taking into account the totality of circumstances of the case in question, particularly the awareness of the detection times and the attempt, although unsuccessful, to administer the treatment sufficiently beforehand the competition, the FEI is of the opinion that the PR has on a balance of probabilities established that she bears no significant fault or negligence for the Rule Violation. The FEI finds that a Period of Ineligibility of four (4) months would be proportionate for the pertinent case taking into account the circumstances of the case. Such evaluation is consistent with other case law involving miscalculated withdrawal times.

However, in determining the final sanction, the FEI had to take into consideration the PR's prior Rule Violation (Case: 2017/FT04 LOBITA) involving the same Horse and the same Prohibited Substance, in accordance with Art. 10.8 Multiple Violations of the ECMRs.

The aforementioned article requires that the period of Ineligibility for a second ECM Rule Violation, within the previous 4 years, to be the greater of

- a) three months;
- (b) one-half of the period of Ineligibility imposed for the first ECM Rule violation without taking into account any reduction under Art. 10.6; or
- (c) twice the period of Ineligibility otherwise applicable to the second ECM Rule violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.

With regards to para (a) the applicable period of Ineligibility would be three months.

With regards to para (b) one half of the period of ineligibility for the first ECM Rule violation would amount to zero, taking into account that the prior Rule Violation was processed under the Administrative Procedure and resulted in no Period of Ineligibility.

With regards to para (c) the otherwise applicable period of ineligibility for the second Controlled Medication Rule Violation would be four (4) months as stated in para 2.22. Hence, twice the period of Ineligibility according to para (c) would amount to eight (8) months.

The greatest of the above stated three options is therefore eight (8) months. Accordingly, the FEI respectfully submits that the applicable period of Ineligibility in present case should be eight (8) 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 Uruguay, the latter being a member of the FEI, the PR is 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 Substance, namely the PR being an FEI registered Treating Veterinarian having injected the Horse with the Prohibited Substance, and having miscalculated the withdrawal time for the Prohibited Substance.
- 5.2 Furthermore, the Tribunal takes note that the FEI accepts that the PR bore No Significant Fault or Negligence for the rule violation.
- 5.3 Following from Articles 10.5 of the ECM Rules, where a PR establishes that she bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility (6 months) and other sanctions (apart from Article 9) may be reduced. The Tribunal notes that the FEI agreed to reduce the period of Ineligibility of the PR by two months.
- 5.4 Further, the Tribunal notes that this is the second rule violation for the PR, seemingly for miscalculating the withdrawal times of medications administered to the Horse. The Tribunal finds that the PR, as a veterinarian herself, should have been aware of the withdrawal times for the Horse, even more so after the first rule violation. She has clear responsibility for the matter. However, in taking all circumstances into account in the present case, the Tribunal agrees with the sanctions agreed by the Parties, namely - among others - a period of Ineligibility of eight (8) months.
- 5.5 However, the Tribunal wishes to clarify that it did not evaluate the degree of fault of the PR, nor did it take into account previous case law.
- 5.6 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 as set forth in Article 3.1 above. Further, this Decision shall terminate the present case 2019/CM04 LOBITA.

## **6. Decision**

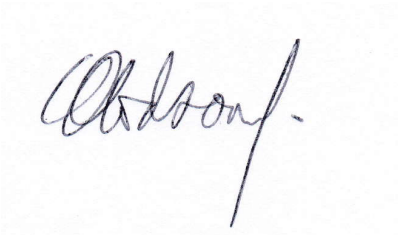
- 1) The Tribunal rules that the Agreement executed by the FEI and the PR, Ms. Cecilia Sebben, concerning the case 2019/CM04 LOBITA is hereby - pursuant to Article 7.6.1 of the EADCMRs - approved by the Tribunal with the consent of the Parties and its terms are incorporated into this Decision. Namely, the Parties agreed as outlined in Article 3.1 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, appearing to read "Chris Hodson", is centered on the page. The signature is written in a cursive, flowing style.

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**Mr. Chris Hodson QC, one member panel**