DECISION of the FEI TRIBUNAL

dated 25 May 2018

Human Doping Case 2017 – 02 HANNA BURNETT

Athlete/FEI ID/NF: Hannah BURNETT/10007210/USA
Event: CCI1*, CIC3* - Ocala-Reddick FL (USA)
Date: 16 – 20 November 2017
Prohibited Substances: Amfetamine

I. COMPOSITION OF PANEL

Mr. Laurent Niddam, chair
Ms. Constance Popineau, member
Ms. Harveen Thauli, member

II. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Relevant Articles of the Statutes/Regulations:

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, 143.1, 161, 168 and 169 ("GRs").

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

FEI Anti-Doping Rules For Human Athletes, Based upon the 2015 WADA Code, effective 1 January 2015 ("ADRHA").


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)."

**ADRHA Scope:** "These Anti-Doping Rules shall apply to the FEI, each National Federation of the FEI and each Participant in the activities of the FEI or any of its National Federations by virtue of the Participant's membership, accreditation, or participation in the FEI, its National Federations, or their activities or Events.

Unless the FEI Sport Rules provide otherwise, to be eligible for participation in FEI events, an Athlete must be registered with the FEI and/or a registered member of a FEI National Federation. The National Federation must guarantee that all registered international Athletes accept the Statutes, Regulations and Rules of the FEI, including these FEI Anti-Doping Rules.

Within the overall pool of Athletes set out above who are bound by and required to comply with these Anti-Doping Rules, the following Athletes shall be considered to be International-Level Athletes for purposes of these Anti-Doping Rules, and therefore the specific provisions in these Anti-Doping Rules applicable to International-Level Athletes (as regards Testing but also as regards TUEs, whereabouts information, results management, and appeals) shall apply to such Athletes who:

(a) are registered with the FEI; and/or

(b) participate in an International Event.”

**ADRHA Art. 7.10.1:** "Agreement between Parties

At any time during the results management process the Athlete or other Person against whom an anti-doping rule violation is asserted may admit that violation at any time, waive a hearing and agree with the FEI on the Consequences that are mandated by these Anti-Doping Rules or (where some discretion as to Consequences exists under these Anti-Doping 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 13.2.3 as provided in Article 14.2 and published as provided in Article 14.3.2."

ADRHA Art. 10.2: "Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substances or Prohibited Methods

The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.

10.2.1.2 The anti-doping rule violation involves a Specified Substance and the FEI can establish that the anti-doping rule violation was intentional.

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years."

ADRHA Art. 10.5.2: "Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1

If an Athlete or other Person establishes in an individual case where Article 10.5.1 is not applicable that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in Article 10.6, the otherwise applicable period of Ineligibility may be reduced based on the Athlete or other Person’s degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight years."

ADRHA Art. 10.11.2: "Timely Admission

Where the Athlete or other Person promptly (which, in all events for an Athlete, means before the Athlete competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule
violation by the FEI, the period of Ineligibility may start as early as the
date of Sample collection or the date on which another anti-doping rule
violation last occurred. In each case, however, where this Article is
applied, the Athlete or other Person shall serve at least one-half of the
period of Ineligibility going forward from the date the Athlete or other
Person accepted the imposition of a sanction, the date of a hearing
decision imposing a sanction, or the date the sanction is otherwise
imposed.

This Article shall not apply where the period of Ineligibility has already
been reduced under Article 10.6.3.”

ADRHA 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 Athlete or other Person’s degree of Fault include, for example, the
Athlete’s or other Person’s experience, whether the Athlete or other
Person is a Minor, special considerations such as impairment, the
degree of risk that should have been perceived by the Athlete and the
level of care and investigation exercised by the Athlete in relation to
what should have been the perceived level of risk. In assessing the
Athlete’s or other Person’s degree of Fault, the circumstances
considered must be specific and relevant to explain the Athlete’s or
other Person’s departure from the expected standard of behaviour.
Thus, for example, the fact that an Athlete would lose the opportunity
to earn large sums of money during a period of Ineligibility, or the fact
that the Athlete 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 Athlete or other Person's 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 Used or been administered the Prohibited Substance or
Prohibited Method or otherwise violated an anti-doping 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 his or her system.”

"No Significant Fault or Negligence: The Athlete or other Person’s
establishing that his or her 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 anti-
doping rule violation. Except in the case of a Minor, for any violation of
Article 2.1, the Athlete must also establish how the Prohibited
Substance entered his or her system.”
III. DECISION

1. Parties

1.1 The athlete, Ms. Hannah Burnett (the "Athlete" or "Ms. Burnett"), is an eventing rider for the United States, administered by the US National Federation (the "USA-NF"), and registered with the FEI under FEI ID: 10007210.

1.2 The Fédération Equestre Internationale (the "FEI" and together with the Athlete, 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, and Para-Equestrian).

2. Proceedings

On 16 May 2018, the FEI informed the Tribunal that the Parties had reached an agreement in the context of the Human Doping Case 2017 – 02 HANNA BURNETT, and on 23 May 2018 the FEI submitted the (signed) Agreement (together with the Case Summary and the Full Reasoning for the Agreement) to the Tribunal for approval and incorporation into a Decision of the Tribunal in accordance with Article 7.10.1 of the ADRHA.

I – Case Summary (as provided to the Tribunal by the Parties as part of the Agreement referred to in Article 3 below)

3.1 The Athlete took part at the CCI1*, CIC3* in Ocala-Reddick, Florida in the USA, from 16 to 20 November 2017 (the "Event"). As a member of the USA Equestrian Federation (the "USEF NF"), the latter being a member of the FEI, the Athlete was bound by the ADRHA Rules.

3.2 The Athlete was selected for testing on 18 November 2017. (Annex 1) The resulting samples were transported to the WADA Accredited Sports Medicine Research & Testing Laboratory in Salt Lake City in Utah, USA ("SMRTL") for analysis.

3.3 By notification letter dated 21 December 2017 the FEI informed Ms. Hannah Burnett and the USEF NF of an alleged violation by Ms. Hannah Burnett of Article 2.1 (The Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) of the

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1 Ms. Burnett is registered with the FEI as Hannah Sue BURNETT with FEI ID 10007210.
ADRHA Rules and that, in accordance with Article 7.9.1 of the ADRHA Rules, a Provisional Suspension had been imposed on her following (i) the Adverse Analytical finding of for a Prohibited Substance that is not a Specified Substance, in the Athlete’s A sample.

3.4 Amfetamine is listed in class S6.a “Stimulants” of Prohibited Substances and is considered a “Non-Specified Substance” under the 2017 WADA Prohibited List. Amfetamine is prohibited in competition. A positive finding for Amfetamine in an Athlete’s Sample constitutes a prima facie ADRHA Rule violation.

3.5 In the Notification Letter of 21 December 2017, the Athlete was informed that she had the right to request the B Sample to be analysed. The Athlete requested the B Sample analysis which was notified on 1 February 2018. The B Sample analysis confirmed the A Sample analysis and the presence of Amfetamine.

3.6 The Athlete applied for a Retroactive Therapeutic Use Exemption (“TUE”), for the medication taken at the time of the Event, which was rejected on 3 April 2018. The Athlete further also applied for a Proactive TUE which was approved on 3 April 2018. (Annex 2)

3.7 The Athlete submitted the following information on 20 April 2018:

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3.13 Ms. Burnett is firmly committed to following the ADRHAs and has made it clear to the FEI that she is interested in supporting the FEI in any and every manner possible to recount her experience to other Athletes and be involved in anti-doping education. She is also deeply regretful of her errors and omissions that led to this ADRHA violation.

3.14 In relation to no significant fault or negligence, the following factors support a sanction at the lowest end of this range:

a) Ms. Burnett’s positive test was caused by her use of a medication for which she now has a valid medical prescription and for which she has provided comprehensive medical documentation.

b) Ms. Burnett’s use of this medication was unrelated to her sport performance, but rather, was to treat her ADHD symptoms.

c) Ms. Burnett promptly admitted her anti-doping rule violation, and promptly provided an explanation as to the cause of her positive test.

d) Ms. Burnett is willing to participate in anti-doping education in whatever manner is suitable to the FEI, including but not limited to speaking to other equestrian athletes about the need to be vigilant with respect to the anti-doping rules.”

II – Full Reasoning for the Agreement (as provided to the Tribunal by the Parties as part of the Agreement referred to in Article 3 below)

"4.1 According to Article 10.2 of the ADRHA Rules, the period of ineligibility imposed for the violation of Article 2.1 shall be, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6, four years where the anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional. If Article 10.2.1 does not
apply, the period of Ineligibility shall be two years. A fine of up to CHF 15,000 shall also be imposed and appropriate legal costs.

4.2 Article 10.4 of the ADRHA Rules states: "If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated."

4.3 Article 10.5 of the ADRHA Rules states "If an Athlete or other Person establishes in an individual case where Article 10.5.1 is not applicable that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in Article 10.6, the otherwise applicable period of Ineligibility may be reduced based on the Athlete or other Person’s degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight years."

4.4 Based on the evidence and documentation supplied by the Athlete (as described in Section 3 above), the FEI has evaluated whether or not Articles 10.4 and 10.5 of the ADRHA Rules are applicable. The FEI has considered that the Athlete has admitted the use of the medication that led to the Adverse Analytical Finding. Further, the Athlete now has a Prospective TUE for the substance Amfetamine found in her sample at the Event. Hence, the FEI is satisfied that the requirement of establishing how the substance entered her system has been fulfilled.

4.5 The FEI has proceeded to evaluate the level of Fault and Negligence of the Athlete. The FEI is of the opinion that Article 10.4 No Fault or Negligence cannot be applied in a case where the Athlete has an obligation to have a TUE for her medical condition, but has not applied for such a TUE. It is the Athlete’s responsibility to be aware of the rules and to apply for a TUE before the competition, and by not doing so, is somehow negligent. The FEI is however satisfied that the Athlete had demonstrated that she bore No Significant Fault or Negligence since she had no intention to dope and also now has received a Prospective TUE for the very same substance that she tested positive for at the Event. This is fully supported by the facts as summarized at paragraph 3.8 above.

4.6 Therefore the FEI is satisfied that the Athlete bears No Significant Fault or Negligence for the anti-doping rule violation.
4.7 The FEI is satisfied that the criteria for the application of Article 10.5 of the ADRHA Rules had been met in that (i) the Athlete has established how the Prohibited Substances entered her system, (ii) the Athlete has demonstrated that she bore No Significant Fault or Negligence and (iii) the circumstances of the case shows that the athlete had no intention to dope and that she has a prospective TUE for her medical condition and that, therefore, the otherwise applicable period of Ineligibility (i.e. four years) should be reduced to one (1) year. Further a fine of 1 500 CHF should be imposed on the Athlete, and the Disqualification of the results at the Event in accordance with Article 9 and Article 11 of the ADRHA Rules should apply.”

3. Agreement between Parties

Based on the facts as detailed above, the Parties signed the following Agreement (the Athlete on 18 May 2018, and the FEI on 22 May 2018 respectively):

*** Quote ***

5.1 All capitalised terms used in this Agreement but not defined herein shall have the meaning ascribed to such term in the FEI Anti-Doping Rules for Human Athletes (“ADRHA Rules”).

5.2 In the matter of the Adverse Analytical Finding related to the samples, which were collected from “), Ms. Hannah Burnett at the CCI1*, CIC3* in Ocala-Reddick, Florida in the USA, from 16 to 20 November 2017 (the “Event”), Ms. Hannah Burnett (the “Athlete”) and the Fédération Equestre Internationale (the “FEI” and together with the Athlete, the “Parties”) agree, in accordance with Article 7.10.1 (Agreement between Parties) of the ADRHA Rules, on the following:

1) The Presence of the Non-Specified Substance Amfetamine in the Athlete’s sample constitutes a violation of Article 2.1 of the ADRHA Rules.

2) Ineligibility Period:
The Parties agree that the prerequisites for Article 10.5.2 of the ADRHA Rules (Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1) are fulfilled in the case at hand and that the applicable period of Ineligibility shall be one (1) year, starting from the date of sample collection, namely on the 18
November 2017.

3) **Disqualification of Results:**
In accordance with Articles 9 and 11 of the ADRHA Rules, all the results achieved by the Athlete at the Event are disqualified, including forfeiture of medals, points and prizes.

4) **Education Requirements:**
Ms. Hannah Burnett is to support the FEI in its anti-doping campaign and to actively engage in Athlete education around human anti-doping. In detail, she agrees to be featured in a testimony for the FEI education material that will be i.e. on the FEI Campus. Additionally, she has to either, follow and complete an anti-doping education course such as WADA’s ALPHA or equivalent, or an education course provided by USADA and/or by US Equestrian. These education conditions shall be fulfilled within one year from the final decision of the FEI Tribunal.

5) **Full Settlement and Resolution:**
This agreement resolves and settles all outstanding matters between the FEI and the Athlete, Ms. Hannah Burnett. 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.

7) **Fine and Legal Costs:**
A fine of 1 500 CHF shall be imposed on the Athlete. Each of the Parties shall bear their own legal costs. The Athlete will have to bear the cost of the B sample analysis.

8) **Right of Appeal:**
This Agreement will constitute the decision for this case. Consequently it will be communicated to the Parties with a right of appeal in accordance with Article 13.2 of the ADRHA Rules.

9) **Public Disclosure:**
All final decisions of the FEI Tribunal are published on the FEI website.

***End Quote***
4. Jurisdiction

4.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, the GRs and the ADRHA.

4.2 As member of the USA-NF, the latter being a member of the FEI, and in accordance with the scope of the ADRHA, the Athlete was bound by the ADRHA.

4.3 Further, Article 7.10.1 of the ADRHA 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 finds no grounds to object to or disapprove of the terms of the Agreement and is satisfied the Agreement constitutes a bona fide settlement of the present case.

5.2 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 concludes the present case: Human Doping Case 2017 – 02 HANNA BURNETT.

5.3 The Tribunal finds that - for the purpose of Article 10.11.2 of the ADRHA - and since the Athlete has signed the Agreement on 18 May 2018, fairness requires that “the date of the sanction” be the date the Agreement was signed by the Athlete, i.e., 18 May 2018. As a result of the foregoing, and following the Agreement between the Parties, the Athlete is ineligible until 18 November 2018.

6. Decision

1) The Tribunal rules that the Agreement executed by the FEI and the Athlete, Ms. Hannah Burnett, concerning the Human Doping Case 2017 – 02 HANNA BURNETT is hereby ratified by the Tribunal with the consent of the Parties and its terms are incorporated into this Decision.
2) This Decision is subject to appeal in accordance with Article 13.2 of the ADRHA. Pursuant to Article 13.7 of the ADRHA 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 from the date of receipt of this Decision.

3) This Decision will be published in accordance with Article 14.3 of the ADRHA.

IV. DECISION TO BE FORWARDED TO:

a. The Athlete: Yes

b. The President of the NF of the Athlete: Yes

c. The Organising Committee of the Event through the NF: Yes

d. WADA & NADO of the Athlete through the FEI: Yes

FOR THE PANEL

[Signature]

THE CHAIRMAN, Mr. Laurent Niddam