



**DECISION of the FEI TRIBUNAL
dated 30 August 2019**

Positive Anti-Doping Case No.: 2019/BS11

Horse: FAMORKU **FEI Passport No:** 105MM35/SLO

Person Responsible/NF/ID: Gaj RIOSSA/SLO/10074607

Event/ID: CSI2* - Carmona (ESP)/2019_CI_0748_S_S_01

Date: 7 – 10 February 2019

Prohibited Substance: Synephrine

I. COMPOSITION OF PANEL

Mr. Cesar Torrente, one member panel

II. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Articles of the Statutes/Regulations which are applicable:

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

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2019, 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, changes effective 1 January 2019.

FEI Equine Anti-Doping Rules ("**EAD Rules**"), 2nd edition, changes effective 1 January 2019.

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

FEI Code of Conduct for the Welfare of the Horse.



2. Person Responsible: Mr. Gaj Riossa, represented by Mr. Antti Linna, fenno Attorneys at Law, Helsinki, Finland.

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."

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 his or her 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, the Athlete must also establish how the Prohibited Substance entered his or her system."

III. DECISION

1. Parties

- 1.1 The Person Responsible ("**PR**"), Mr. Gaj RIOSSA, is a jumping rider for Slovenia.
- 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 26 August 2019, the FEI informed the Tribunal that the Parties had reached an agreement in the context of the case 2019/BS11 – FAMORKU, 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 EAD Rules.

3. Agreement between Parties

- 3.1 On 22 August 2019, the Parties reached the following Agreement:

*** Quote***

2 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:

- 2.1 In the matter of the Adverse Analytical Finding related to the samples, which were collected from Mr Gaj Riossa's horse FAMORKU (the "Horse") at the CSI2* - Carmona in Spain, from 7 to 10 February 2019 (the "Event"), Mr Gaj Riossa (the "PR") and the FEI agree in accordance with 7.6.1 EAD Rules on the following:
 - (a) Mr Riossa 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); and
 - (b) Mr Riossa established on a balance of probabilities how the

Synephrine entered the Horse's system; and

- (c) Mr Riossa bears no fault or negligence for the Rule Violation and therefore he shall not serve any period of ineligibility and the otherwise applicable period of Ineligibility (i.e. two years) shall be eliminated; and
 - (d) In accordance with Article 10.8.3 of the EAD Rules, this violation of the EAD Rules shall not be considered a prior violation for the purpose of Article 8 (Multiple Violations) of the EAD Rules.
 - (e) In accordance with EAD Rules Articles 9.1 and 10.1.2 the results achieved by the Mr Riossa and Famorku at the Event are disqualified, with all resulting consequences, including forfeiture of any related medals, points and prizes;
 - (f) Mr Riossa shall not incur any fines;
 - (g) No other Sanctions (other than the Disqualification of the Horse's results at the Event in accordance with Articles, 9, 10.1.2 and 11 of the EAD Rules) will apply in this case.
- 2.2 Mr Riossa did not contest the Provisional Suspension imposed on the Horse and therefore accepts that this remained in place until 17 May 2019.
- 2.3 Each party will bear its own legal and other costs incurred in connection with these proceedings.
- 2.4 Mr Riossa is to bear the cost of the B-sample analysis.
- 2.5 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.
- 2.6 The parties acknowledge and agree that, pursuant to Article 13.3 of the EAD 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 Furthermore, the Parties submitted the following Case Summary and

Reasoning:

"1 WHEREAS:

- 1.1 Mr Gaj Riossa, the Person Responsible ("PR") in accordance with Article 118.3 of the FEI General Regulations, is a jumping rider for Slovenia.
- 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 FAMORKU (the "Horse") in CSI2* - Carmona in Spain, from 7 to 10 February 2019 (the "Event"). As a member of the Slovenian Equestrian Federation (the "Slovenian 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 10 February 2019. 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 Synephrine, a stimulant that causes vasoconstriction, increases heart rate and is used as a weight loss aid in humans. Synephrine is a Banned Substance under the 2019 FEI Equine Prohibited Substances List. Synephrine remaining a Banned Substance is also designated as a "Specified Substance".
- 1.6 By notification letter dated 18 March 2019, the FEI informed Mr Riossa, in his capacity as the Person Responsible, and the Slovenian 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 Synephrine in the Horse's Sample collected at the Event. On the same day, a Provisional Suspension of two months was imposed on the Horse. (Exhibit 1) The PR was not provisionally suspended since the Prohibited Substance in question is designated as a Specified Substance.
- 1.7 In the notification letter of 18 March 2019, the PR was informed of his right to request the Horse's B Sample to be analysed. The PR requested the B-Sample Analysis on 8 April 2019. The B-Sample Analysis result

was notified on 15 May 2019, and it confirmed the finding of the A-Sample Analysis with presence of Synephrine. (Exhibit 2)

- 1.8 On 4 and 17 June 2019, the PR through his legal counsel provided his written submission, where he explained the following: (Exhibit 3-4)
- After significant effort in investigating the positive finding the PR has discovered that the substance in question most likely entered the Horse's system through hay provided by the organiser of the Event in Carmona i.e. Sevilla Horse Tour "SHOT" ("organiser);
 - The horse has been fed the hay provided by the organiser throughout the Event. The PR had no choice but to buy the hay from the organiser since he was participating in the Event with 11 horses and it would be logistically impossible to bring his own hay. The PR provided an invoice attesting to the purchase of the hay;
 - The hay provided by the organiser was teff hay which is now known to be able to contain Synephrine as also acknowledged in the FEI Warning regarding Synephrine issued by the FEI and distributed via email in the FEI Veterinarian Update on 13 May 2019;
 - The PR has the following actions and procedures in place in order to ensure a maximum level of stable hygiene and avoidance of contamination risks:
 - working with an experienced stable manager;
 - always checking against the FEI Clean sport app the components of hard feed and supplements or any other product used for the wellbeing of the horse;
 - using only hard feed and supplements from well-known brands that guarantee to be doping free (Red Mills for hard feed and Foran Equine for supplements);
 - noting the feed and amount of the feed to be given to a horse on the horse's board with additional instructions given to the groom on which feed and amount of it is to be given to an individual horse;
 - the supplements are given to the horses by the stable manager;
 - keeping a record of feeding history for each horse;

- labelling the feed buckets in order to prevent possible mix up and removing and washing feed buckets every time a horse finishes eating its feed;
 - storing the hard feed and supplements in a locked feeding room with only the PR and his staff having access to it;
 - while on shows keeping the feed in a locked tack box in the truck which is also locked;
 - using exclusively one treating veterinarian for all the PR's horses for all treatments namely dr. Arie Hoogendoorn veterinary surgeon at Haaksbergen, NL which is also a Netherland Jumping team veterinarian;
 - the stable manager and the veterinarian keep the record of all the check-ups and possible therapies for each horse;
- The PR has in addition provided a list of hard feed and supplements that the Horse has been ingesting;
 - The PR has eliminated the possibility for the positive finding of Synephrine to be originating from the Horse's hard feed or supplements;
 - The PR provided a statement from his treating veterinarian confirming that he is the treating veterinarian for the Horse and that he has never administered any product containing Synephrine or any similar substance to the Horse, furthermore the treating veterinarian does not know any product containing Synephrine or similar product that would be used in veterinary practice and is not familiar with this substance;
 - The PR provided an expert opinion by Prof. Borut Strukelj, PhD, MPharm who in essence stated that it is likely possible that positive samples of the Horse are due to the unintentional feeding with bitter orange leaves, or more probably, with the hay, composed of teff grass or common rush;
 - The PR has had no reason to suspect that the hay provided by the organiser could contain any Prohibited Substances especially since Synephrine risk has come to the common awareness only after this case;
 - The PR therefore bears no fault or negligence for the EAD rule violation.



- 1.9 After the FEI established three positive cases¹ involving the Prohibited Substance of Synephrine originating from the same competition tour in Carmona organized by SHOT – Sevilla Horse Tour, the FEI has contacted on its own initiative the organiser of the tour requesting the organiser to send hay sample, if still available, to an FEI accredited laboratory to be tested against Synephrine.
- 1.10 The organiser confirmed that he still has several bales from the same supplier and that he can send the samples for testing. In addition, the organiser confirmed that the hay supplier informed him that his hay is teff hay only. Teff hay has been established to potentially contain Synephrine.
- 1.11 The samples were collected by an FEI Steward and sent to LGC Newmarket Road Laboratory ("LGC") in Cambridgeshire, UK, an FEI accredited Laboratory. On 13 June 2019 the laboratory informed the FEI of the results of the analysis namely that the screening tests indicated the possible presence of Synephrine. (Exhibit 6)
- 1.12 The FEI is therefore satisfied that the PR established:
- (a) on a balance of probabilities, a plausible explanation of how the Synephrine entered the Horse's system, which was via the hay provided by the organizer of the Event;
 - (b) that the PR did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that the hay contained a Banned Substance;
 - (c) in consequence the FEI is satisfied that the PR established that he bore no Fault or Negligence for the Rule Violation.
- 1.13 Article 7.6.1 of the EAD Rules permits an agreement between the parties, subject to FEI Tribunal approval."

4. Jurisdiction

- 4.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, the GRs and the EAD Rules.
- 4.2 As a member of the Slovenian National Federation, the latter being a member of the FEI, the PR was bound by the EAD Rules.

¹ 2019/BS10, 2019/BS11 and 2019/BS18

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 hay provided by the organiser of the Event was contaminated with Synephrine, as also confirmed by the screening tests conducted, and that the PR bore No Fault or Negligence for the rule violation.

5.2 Furthermore, Article 10.4 of the EAD Rules allows for the elimination of the period of Ineligibility where there is No Fault or Negligence on the part of the PR. As a result, the Tribunal has decided to approve the Agreement made between the Parties. 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.

5.3 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 2019/BS11 FAMORKU.

6. Decision

- 1) The Tribunal rules that the Agreement executed by the FEI and the PR, Mr. Gaj Riossa, concerning the case 2019/BS11 FAMORKU is hereby ratified by the Tribunal with the consent of the Parties and its terms set out in Article 3 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



Mr. Cesar Torrente, one member panel