



**Arbitration CAS 2019/A/6186 Mohamed Ahmed Al Owais v. Fédération Equestre Internationale (FEI), award of 12 July 2019**

Panel: Mrs Sylvia Schenk (Germany), President; Mr Dirk-Reiner Martens (Germany); Mrs Susan Ahern (Ireland)

*Equestrian (jumping)*

*Horse doping (diisopropylamine)*

*Significant lack of caution*

*Duty to do a thorough check of the list of prohibited substances*

- 1. The fact that a Person Responsible (PR) never checked the FEI Equine Prohibited Substances List for the ingredients listed on the label of a product or asked for an expert's view, for example from an official FEI veterinarian, demonstrates a very significant lack of caution. This is all the more so where the PR not only is an experienced professional rider on the international level who must know what is expected under the Equine Anti-Doping Rules, but also owns a family business which provides products and services to the horse-keeping industry, manages stables, and also assists junior and young riders. His/her responsibility, therefore, is not only for his/her own horses and career but for the welfare and careers of other horses and their riders as well.**
- 2. Not only has a PR the duty to check the FEI Equine Prohibited Substances List, but s/he can be expected to do a thorough and detailed search, i.e. not restricting him-/herself to one click.**

**I. THE PARTIES**

1. Mohamed Ahmed Al Owais (the "Appellant") is a 39-year-old professional show jumper from the United Arab Emirates ("UAE").
2. The Fédération Equestre Internationale (the "Respondent" or "FEI") is the international governing body for the equestrian sport disciplines of, inter alia, show jumping.
3. Appellant and Respondent will together be referred to as the "Parties".

## II. INTRODUCTION AND FACTUAL BACKGROUND

4. This is an appeal by the Appellant against a decision of the FEI Tribunal dated 27 February 2019 (“the Decision”) in so far as it held that the Appellant is suspended from FEI competitions for a period of 22 months from 19 March 2018 until 18 January 2020.
5. The circumstances discussed below constitute a summary of the relevant facts and evidence as set forth by the Parties in their respective written submissions and orally during the hearing. This chapter on the factual background is made for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out where relevant, in connection with the legal discussion. The primary facts were substantially uncontested.

### A. Primary Facts

6. The Appellant’s life and livelihood revolve around equestrian sport. He is an experienced professional show-jumper, having competed for many years at national, continental, and world level, and has been registered with the FEI as jumping rider since 2007. He had, since 2012, his show jumping career fully supported financially by Al Shira’aa Stables (with locations in Sharjah, UAE, and Surrey, England). Additionally, the Appellant owns three competition horses, stabled at Al Safinat Stables in Sharjah, UAE, and a family business, Al Sakb Equestrian, which provides products and services to the horse-keeping industry. Al Sakb Equestrian, in fact, manages the operation of both Al Safinat Stables and Al Shira’aa Stables (both referred to as the “Stables”). The Appellant also assists junior and young riders in order to develop the UAE’s next generation of show jumpers.
7. On 16 February 2018, a urine and a blood sample (the “Sample”) were collected from the horse Tina La Bohème (“Tina” or the “Horse”) during an in-competition doping control test at the Longines FEI Jumping Nations Cup, Abu Dhabi (the “Event”). Tina was ridden by the Appellant who thus was the Person Responsible (“PR”) according to Article 118 of the FEI’s General Regulations (“GR”).
8. The analysis of the Sample by the FEI-approved Hong Kong Racing Laboratory in Sha Tin, Hong Kong, CHN (the “Laboratory”) revealed the presence of Diisopropylamine (the “Substance”) in the blood. Diisopropylamine is a vasodilator used in the treatment of peripheral and cerebral vascular disorders, classified as a Banned Substance under the FEI Equine Prohibited Substances List (the “List”).
9. According to the FEI’s Equine Anti-Doping and Controlled Medication Regulations (the “EADCMR”) “Banned Substances are prohibited at all times”.
10. The application of the Substance to a horse constitutes a violation of Article 2.2 (Use of a Banned Substance) of the Equine Anti-Doping Rules (“EAD Rules”), a part of the EADCMR that pertains to Banned Substances. The presence of Diisopropylamine in a horse’s sample at any time constitutes a violation of Article 2.1 (Presence of a Banned Substance) of the EAD Rules.

**B. The Course of Events after the Detection of the Banned Substance**

11. On 19 March 2018, the Appellant received a letter from the FEI notifying him of the adverse analytical finding and provisionally suspending him.
12. The Appellant requested the B-sample to be analyzed. The result of the B-sample analysis was notified on 14 May 2018, and confirmed the positive finding of Diisopropylamine in the blood.
13. In a letter to FEI dated 24 August 2018, the Appellant accepted he was the PR for Tina in accordance with Article 118 of the GR, and also accepted that the presence of Diisopropylamine in the A and B Sample constituted a violation of Article 2.1 of the EAD Rules.
14. Regarding the source of the Diisopropylamine, the Appellant submitted that it was contained in a product called Tridenosen (the “Product”), which was injected to Tina intra-muscularly by the Appellant’s head groom, Mr. Othman, on or around 13 February 2018 prior to the horse travelling to the Event.
15. The label for Tridenosen mentions “Di-Isopropylamine Dichloroacetate” on the list of ingredients, and on the manufacturer’s website it says “Tridenosen Injection - VET ONLY PRODUCT - Vasodilator to improve blood flow and minimise tying-up/cramping, fatigue and muscle damage in Horses and Dogs”.
16. [...].
17. [...].
18. [...].
19. [...].
20. [...].
21. [...].
22. [...].

**C. Proceedings before the FEI Tribunal**

23. On 16 October 2018, the Appellant requested the lifting of the Provisional Suspension, and on 2 November 2018, he submitted additional explanations. On 26 November 2018, a Preliminary Hearing was held via telephone conference call. On 10 December 2018, the Preliminary Hearing Panel issued a Preliminary Decision and decided to maintain the Provisional Suspension of the Appellant.

24. A hearing took place on 1 February 2019 at the Respondent's Headquarters in Lausanne. On 27 February 2019, the FEI Tribunal issued the Decision imposing a final ineligibility period of 22 months on the Appellant as well as a fine of CHF 6,500.00 and ordered him to pay CHF 3,000.00 as costs for the proceedings.
25. The Appellant is appealing against that Decision.

### **III. PROCEEDINGS BEFORE THE CAS**

26. On 1 March 2019, the Appellant filed his Statement of Appeal with the CAS in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration of the Court of Arbitration for Sport ("the Code").
27. On 29 March 2019, the Appellant filed his Appeal Brief in accordance with Article R51 of the Code in which he also applied for provisional measures in accordance with Article R37 of the Code.

#### **A. The Appellant's Request for Provisional Measures**

28. In a letter dated 3 April 2019, the CAS Court Office sent the Appeal Brief to the Respondent, granting a deadline of seven days from receipt of the letter to file its position on the Appellant's Request for Provisional Measures.
29. On 10 April 2019, the CAS Court Office informed the Parties that the Panel appointed to hear the case was constituted as follows:  
  
President: Mrs Sylvia Schenk, attorney-at-law in Frankfurt, Germany  
  
Arbitrators: Dr Dirk-Reiner Martens, attorney-at-law in Munich, Germany  
Mrs Susan Ahern, Barrister in Dublin, Ireland
30. The Respondent filed its submission in relation to the Request for Provisional Measures on 16 April 2019, i.e. after the deadline had expired, and asked for a 10-day extension to file its Answer on 22 April 2019.
31. Following the latter request, the CAS Court Office suspended the deadline for the Answer. The Appellant objected to the extension unless the Provisional Suspension was lifted with immediate effect.
32. The Panel consulted and, on 6 May 2019, issued its Order on Request for Provisional Measures, dismissing the Appellant's request without taking into account the Respondent's 16 April 2019 submission (# 30 above).
33. The same day, the Respondent filed its Answer.

## **B. The Hearing**

34. On 14 May 2019, a Hearing was held at the Hotel Lausanne Palace, Lausanne, Switzerland.
35. The Appellant was represented by his Counsels Lisa Lazarus, William Sternheimer, Tom Seamer and Emma Waters. The Respondent was represented by the FEI Legal Counsel, Anna Thorstenson, and Ana Kricej, FEI Junior Legal Counsel.
36. The Appellant gave evidence. Before his testimony he was informed about his duty to tell the truth.
37. No witnesses were called by the Respondent.
38. At the outset of the Hearing, the Parties confirmed that they had no objection to the composition of the Panel. At the conclusion of the Hearing the Parties likewise confirmed that the proceedings had been fairly conducted and that due respect had been paid to their right to be heard.

## **IV. THE SUBMISSIONS OF THE PARTIES**

### **A. The Position of the Appellant**

39. The Appellant submitted that:
  - Article 10.5.2 of the EAD Rules (“No Significant Fault or Negligence”) applies to his case, such that any period of ineligibility imposed on him should be limited to a maximum of 12 months;
  - alternatively, Article 10.6.3 of the EAD Rules (“Prompt Admission”) applies such that any period of ineligibility imposed on him should be limited to a maximum of 12 months;
  - [...].

#### ***1. No Significant Fault or Negligence***

40. The Appellant refers to his lifelong passion for horses and emphasizes that their welfare is paramount to him. He admits his responsibility, stating to be devastated by his error, and stressing that he never argued “no fault”. But in his view “no significant fault or negligence” does apply to his case as it is not a very serious violation and his degree of fault is low. This is mainly based on the following arguments:

a) *The Procedures at the Stables*

41. The Appellant explains in detail that he had always sought to take precautions to avoid any inadvertent anti-doping rule violations. That is reflected in the strict procedures operated at Al Shira'aa Stables, which include:
- only employing experienced staff;
  - allocating a small number of horses per groom (typically three or four);
  - listing feed and supplements clearly on whiteboards outside each stall;
  - entrusting veterinary care to one trusted and well-regarded veterinarian; and
  - only buying products that are known and trusted by Al Shira'aa Stables.
42. Intravenous injections are administered only by the veterinarian, or at an animal hospital, while intramuscular injections are administered only by the veterinarian or by the head groom, Mr Othman. The Appellant himself has never administered any injections.
43. The head groom has 15 years of experience, and the Appellant has worked with him closely at the Stables for several years.
44. The Appellant has learned a lot about the welfare of horses in Europe, his Stable conducts a welfare program with a sponsor, and, among others, has a proper retirement program in England for its horses.
45. After the positive Sample the Stables have improved the routine on medication, introducing a medication log book and computerizing everything.

b) *The Source of the Product*

46. The source of the Banned Substance is Tridenosen, which is marketed and manufactured by the Australian veterinary product manufacturer Ceva Animal Health Pty Ltd ("Ceva"). The Product is designed to prevent the risk of cramping which, in the Appellant's view, is a common welfare issue that affects competition horses.
47. The Appellant was introduced to the Product in 2008 by a well-respected German veterinarian. That veterinarian recommended the Product be used to assist with alleviating cramping in horses that were participating in multi-day competitions or that had to travel long distances as it can be difficult for horses to remain cramp-free during such travel. The use of the Product was therefore intended to maintain the welfare of the horses as recommended by a veterinarian.
48. When the Appellant began using Tridenosen in 2008, Diisopropylamine was not listed or named as a Prohibited Substance on any FEI Prohibited List. He also relied on the fact that

the Product was manufactured and marketed by Ceva, a reputable Australian brand that is marketed as safe for use in competition horses from an anti-doping perspective.

49. The Appellant's belief that the Product was permitted was further reinforced by Ceva's precise instructions on how to administer the Product to competition horses.
50. The Appellant used the Product routinely in respect of those competition horses that faced the risk of cramping, i.e. especially during and following multi-day events, so horses would typically have been administered with the Product before such events.
51. The Appellant used Tridenosen for more than 10 years without incident. That experience reinforced his belief that it was safe to use from an anti-doping perspective.
52. This was supported by his horses passing six (6) international anti-doping tests and additional tests on national level without ever turning out positive.
53. The Appellant admits that he never checked the FEI Equine Prohibited Substances Database for Diisopropylamine prior to the positive sample but notes, that even if he had done so, a search for "Di-Isopropylamine Dichloroacetate" or "Di-Isopropylamine", i.e. written with a hyphen as on the Product's ingredients list, would have led to "no results".
54. According to the routine in the Stables, Tina was administered the Product by Mr. Othman to make her more comfortable during travel, and to alleviate the risk of pain from cramping. This happened before traveling to the Event, several days before she was due to compete, for horse welfare purposes.

c) *The Lack of Anti-Doping Education*

55. The Appellant points out that he never received any formal anti-doping training and therefore only had a rudimentary understanding of anti-doping.
56. The FEI Region VII which consists primarily of Middle Eastern countries has had well publicized doping cases related to endurance riding. Thus, anti-doping training has been arranged by the National Federation to combat the problem in that discipline of horse sport, but has not been made available to the Appellant as a show jumper.

d) *Conclusion*

57. The Appellant quotes a number of CAS decisions that in his view acknowledge
  - no "significant fault or negligence" if an athlete faces a situation in which a product that the athlete had used for several years, had changed its status from permitted to prohibited.
  - as favourable to an athlete if a "Specified Substance" cannot be found "on the WADA Prohibited List as it is unfortunately not on the list as labelled".

and draws the conclusion that, according to the principle of equal treatment, this also applies to him.

58. Taking into account the totality of circumstances the Appellant sees his fault or negligence at the very lowest end of the spectrum, i.e. as “no significant fault”.

## **2. *Prompt Admission***

59. The Appellant is of the view, that his letter dated 24 August 2018 contained a prompt admission of the anti-doping rule violation according to Article 10.6.3 of the EAD Rules. Thus, in case the Panel were to conclude he did act with significant fault or negligence, any period of ineligibility imposed on him should be limited to a maximum of 12 months.

60. With regard to the commencement of the period of ineligibility, the Appellant submits that, unless the Panel has previously reduced the otherwise applicable period of ineligibility in accordance with Article 10.6.3 EAD Rules (i.e. “Prompt Admission”), pursuant to Article 10.10.3 EAD Rules (“Timely Admission”) any period of ineligibility imposed on him should be backdated to the date of sample collection, i.e. 16 February 2018.

## **3. *[...]***

61. [...].

62. [...].

63. [...].

64. [...].

65. [...].

66. [...].

## **4. *Request of Relief***

67. In the Appeal Brief and Request for Provisional Measures the Appellant requests

*67.1 to immediately to stay the Decision and thus to allow him to compete pending the determination of his Appeal*

*67.2 to set aside the Decision and*

- to reduce the period of Ineligibility imposed on the Appellant to a maximum of 12 months, pursuant to Article 10.5.2 of the Equine Anti-Doping and Controlled Medication Regulations (“EADR”; “No Significant Fault or Negligence”) or, alternatively, Article 10.6.3 of the EADR (“Prompt Admission”);*

- [...].

67.3 *to order the Respondent*

- *to reimburse the Appellant his legal costs and other expenses pertaining to this appeal proceeding before CAS; and*
- *to bear the costs of the arbitration.*

## **B. The Position of the Respondent**

68. In its Answer the Respondent requests the CAS

68.1 *to confirm the FEI Tribunal Decision and leave it undisturbed;*

68.2 *in accordance with Article R65.3 of the CAS Code of Sports-related Arbitration to reject the Appellant's request for an order that the FEI make a contribution towards the costs he has incurred in making this Appeal;*

68.3 *in accordance with Article 64.5 of the CAS Code of Sports-related Arbitration, to order the Appellants to pay all of the costs incurred by the CAS and payable by the Parties in these proceedings; and*

68.4 *in accordance with Article R.64.5 of the CAS Code of Sports-related Arbitration, to order the Appellant to pay a contribution towards the legal fees and other expenses incurred by the FEI in defending this appeal.*

69. The Respondent claims that the Appellant has not

- established that “No Significant Fault or Negligence” should apply;
- fulfilled the conditions for “Prompt Admission”;
- [...].

### **1. Significant Fault or Negligence**

70. The Respondent accepts the Appellant's explanation on how the Tridenosen has been administered to Tina as “*plausible*”, but stresses, that there are no records of the use of Tridenosen given to the Horse. The FEI finds it particularly negligent that no records of any injections exist, especially since the Tridenosen was injected close to the competition.

71. In the Respondent's opinion, it constitutes a clear performance enhancing effect if fatigue and muscle damage can be avoided, and the Appellant's submission shows that he was aware of such effects of Tridenosen. In addition, Tridenosen is a medication, and is presented under “performance” on the manufacturer's website, therefore is inherently likely to contain one or more drugs banned under the EAD Rules.

72. Even if a veterinarian should initially have recommended the Tridenosen – to which the Respondent contends that no evidence was provided – it is the Appellant’s duty to check the ingredients as well as the List, especially if the nature and effects of the Product and the manufacturer’s website indicate risks.
73. In this case, the FEI suggests there were at least four significant red flags in the packaging and other material that came with the Tridenosen product:
- The Banned Substance Diisopropylamine was listed on the ingredient list of Tridenosen.
  - Tridenosen is an injection, which requires administration by a veterinarian.
  - It is marketed as a “*vet product only*” with the text: “*If used in performance animals, the regulations of the relevant authorities regarding medication should be observed*”.
  - It is also marketed as a “*Vasodilator to improve blood flow and minimise tying-up/ cramping, fatigue and muscle damage in Horses ...*”.
74. The FEI submitted that Diisopropylamine was already considered as a prohibited substance in 2008 and expressly included by name on the List in 2010. The Respondent therefore concludes that it was prohibited since the Appellant started using it.
75. With a simple Google search of Di-Isopropylamine Dichloroacetate the first hit is Diisopropylamine Dichloroacetate, without the hyphen. Further, with a Google search for “Di-Isopropylamine doping” the first hit is the FEI update from February 2017, where 3 positives for Diisopropylamine were announced.
76. In the Respondent’s view, the Appellant as an experienced rider who has been competing abroad for a long time, was highly negligent by using a product that contained a Banned Substance for the past 10 years in ignorance or demonstrating disregard for the applicable rules.
77. As the Appellant never checked the List nor took any other precaution over a long period of time to verify that the Product was clear for use on the horses, his case cannot be compared to those quoted in the Appeal Brief.
78. There are no unique or exceptional circumstances that could relieve the Appellant of his duty to check the FEI List over the past 10 years. This failure constitutes a high and significant level of Fault and Negligence.
79. The FEI finds it disturbing that the Appellant in his submission continues to maintain that the Product, which he now knows contains a Prohibited Substance, was given in the interest of the welfare of the Horse and can be considered to have a legitimate medical use.

80. The Respondent rejects the argument there was a lack of anti-doping education. There are no mitigating circumstances on the basis of the Appellant's failure to inform himself of the List and the EAD Rules for the following reasons:
- The Appellant is almost 40 years of age and has competed internationally (being registered with the FEI) since 2007.
  - He has competed almost every month (about 3 out of 4 weekends) with several horses since he was first registered.
  - He has competed in over 520 international competitions.
81. The Respondent has double-checked all the negative results from 2013 to 2018 of the 16 horses the Appellant has competed with in 2016 to 2018: the FEI's records show that only one of the Appellant's horses (except for the test of the Horse in the case at hand) was tested during this period and it returned a negative test.
82. The Respondent concludes, that the Appellant cannot claim 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 a Banned Substance to the Horse. On the contrary, the Appellant administered a Banned Substance to his horses over a long period of time, and this failure amounts to a high and significant level of fault.

## **2. *No Prompt Admission***

83. The Respondent does not find that the admission on 24 August 2018, i.e. more than three months after notification and after asking for the B-sample to be analyzed, can be considered as prompt or timely.
84. Additionally, 10.6.3 and 10.10.3 of the EAD Rules state, that in case of prompt admission "*a reduction in the period of ineligibility*" may be granted "*upon the approval and at the discretion the FEI*". The Respondent points to the fact, that it has not approved such reduction in this case and further that the two key factors "*seriousness of violation*" and "*degree of fault*" have also to be taken into account,

## **3. *[...]***

85. [...].
86. [...].
87. [...].
88. [...].

89. [...].

90. [...].

91. [...].

## **V. JURISDICTION OF THE CAS**

92. Article 12 of the EADCMR (Second Edition effective 1 January 2018) provides for an appeal to CAS. The jurisdiction of CAS has not been contested by the Respondent.

## **VI. ADMISSIBILITY**

93. According to Article 12.3 of the EADCMR, the deadline for filing an appeal to CAS is 21 days from the date of receipt of the panel hearing decision by the appealing party. On the basis of the procedural chronology the Appeal is accordingly admissible.

## **VII. APPLICABLE LAW**

94. In accordance with Article R58 of the CAS Code, the provisions of the FEI rules and regulations which could be relevant to this case are as follows:

94.1 The FEI Equine Anti-Doping and Controlled Medication Regulations, 2nd edition, effective 1 January 2018.

94.2 The FEI Statutes, 23rd edition, effective 29 April 2015.

94.3 The FEI General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2018.

94.4 The Internal Regulations of the FEI Tribunal (“FEI Tribunal Regulations”), 3rd Edition, 2 March 2018.<sup>31</sup>

94.5 The FEI Veterinary Regulations, 14th Edition 2018, effective 1 January 2018.

94.6 The FEI Equine Prohibited Substance List 2018, Effective 1 January 2018.

95. Pursuant to Article 39 of the FEI Statutes, the CAS as an independent court of arbitration, shall judge all appeals properly submitted to it against decisions of the FEI Tribunal, as provided in the Statutes and GR. The seat of the CAS is in Lausanne, Switzerland, and proceedings before the CAS are “governed by Swiss Law” (FEI Statutes, Article 39.4). As a clear choice-of-law clause is included in the FEI Statutes and therefore agreed between the Parties, the Panel shall decide the matter according to Swiss law. In any event, had the Parties not agreed on the applicable law, Swiss law would apply to the merits of the dispute pursuant

to Article R58 of the CAS Code, as the FEI is based in Lausanne, Switzerland.

## VIII. MERITS

96. The anti-doping rule violation committed by the Appellant as Responsible Person for Tina is undisputed.
97. [...].
98. Therefore, the case at hand is about the duration of the suspension. The Panel has to decide whether the sanction can be further reduced based on the provisions regarding “No Significant Fault or Negligence”, “Prompt Admission” [...].

### A. Level of Fault or Negligence

99. Article 10.5.2. of the EAD Rules reads as follows:

*“Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1*

*If a Person Responsible and/ or member of the Support Personnel (where applicable) establishes in an individual case that he bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility and other Sanctions (apart from Article 9) may be reduced in regard to such Person, 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 (8) years. When a Banned Substance and/ or its Metabolites or Markers is detected in a Horse’s Sample in violation of Article 2.1 (presence of a Banned Substance or its Metabolites or Markers), the Person alleged to have committed the EAD Rule violation must also establish how the Banned Substance or its Metabolites or Markers entered the Horse’s system in order to have the period of Ineligibility reduced”.*

100. Appendix I of the EAD Rules defines “No Significant Fault or Negligence” as follows:

*“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”.*

101. The Respondent accepts and the Panel agrees that the Appellant’s explanation on how Diisopropylamine was administered to Tina is “plausible”, thus the condition of establishing how the Prohibited Substance entered the Horse’s system according to Article 10.5.2. of the EAD Rules is fulfilled.
102. However, the Panel finds that the Appellant’s fault or negligence, given the seriousness of the anti-doping rule violation, and taking into account the totality of circumstances, was very high, i.e. significant.

103. The Panel welcomes the Appellant's affirmation at the Hearing, that he cares for his horses' welfare, has now learned his lesson and has improved the system used in his Stables.
104. The Panel also accepts that "*it was not all wrong with the system*" in the Stables, as the Appellant put it in his final words, but notes with concern that even at this stage of the proceedings he called his routine of using Tridenosen "*one small mistake in my system*".
105. In the Panel's view the undisputed facts in these proceedings have revealed a level of behaviour which is at worst highly negligent and at best careless and in neither circumstances justifying the application of "no significant fault or negligence".
106. The Panel holds that the Appellant, by using a Banned Substance for more than ten years on all his competition horses, has been in serious breach of the anti-doping rules for a long period of time.
107. The fact that, as he admitted, he never checked the List for the ingredients listed on the Tridenosen label or asked for an expert's view, for example from an official FEI veterinarian, demonstrates a very significant lack of caution being exercised by the Appellant.
108. The Appellant did not provide any details and, above all, no evidence as to how he was introduced to the Product. The German veterinarian named by the Appellant has not been called as a witness, the concrete date and occasion of the veterinarian's alleged recommendation have not been described.
109. In his witness statement, the Appellant maintained for the first time that the German veterinarian initially not just recommended Tridenosen to him but also handed him the Product, and that he might have used the Product even before 2008. However, he could find receipts of purchases only since 2008.
110. Additionally, the Appellant in his testimony at the Hearing claimed that he had called "*the vet*" about two years ago and "*recalls vividly*" that he spoke to him about his routine with Tridenosen, receiving the affirmation "*that it is the same*".
111. The Appellant's statements did not convince the Panel for the following reasons:
  - 111.1 While presenting receipts for the purchase of Tridenosen since 2008, the Appellant claims to have no record whatsoever of when and for which horses this Product was used in his Stables.
  - 111.2 When questioned by the Respondent's counsel at the Hearing, the Appellant revealed that his head groom "*used to have a book*" with "*the major things*" in it, i.e. notes on feeding, supplement, visits of the vet. When asked whether anything regarding the application of Tridenosen had been noted, the Appellant answered "*I think he would not put it*",

called it “*a small treatment*” and then, when asked whether he had checked it, said “*We have looked, I think it was not in the book – I am sure*”.

112. Not having a log book on medication, i.e. administering intramuscular injections routinely to horses without any records, contrasts with the Appellant’s affirmation of caring for the welfare of his horses and constitutes serious negligence.
113. On the basis of the Respondent’s submissions, the Panel has no doubt that Diisopropylamine was already prohibited in 2008 at the latest, and possibly even before then.
114. In any event, in 2008, i.e. when the Appellant started to use Tridenosen, he should have checked the List for Tridenosen and its component ingredients. This applies especially as he is not only an experienced professional rider on the international level who – even without anti-doping education – must know what is expected under the EAD Rules. He owns a family business which provides products and services to the horse-keeping industry, manages stables, and also assists junior and young riders, with a view to develop UAE’s next generation of show jumpers. His responsibility, therefore, is not only for his own horses and career but for the welfare and careers of other horses and their riders as well.
115. Thus, the Panel is not persuaded by his argument that he has had no “*formal anti-doping education*”. Every owner of such a business and every trainer of young riders, even if they have never been professional riders, have to make themselves familiar with the basic anti-doping precautions. This is all the more acute where a professional rider is involved, who is obliged to be aware of and comply with the rules of the sport in which they are engaged. In this case the Appellant was subject to the EAD Rules and the EADCM Regulations.
116. Further, as confirmed by the Appellant himself, no one in any form involved in equestrian sport, at least no one from the region, could have missed the huge problem of horse doping in the Middle East/the UAE. This environment made it even more urgent to follow strict anti-doping practices, and to check the Product and its ingredients in detail on a regular basis.
117. Also the question whether to write Diisopropylamine with hyphen or not, i.e. whether the Appellant could have found it with only one click on the List, does not lead to “no significant fault or negligence”. The Appellant *did not* check the List at all prior to the positive Sample, and even had he done so, one would expect him to do a thorough and detailed search, i.e. not restricting himself to one click, given the characteristics of Tridenosen and the reasons for using it as described by himself. Therefore, the Appellant’s case cannot be compared to the cases he quotes in his submissions.
118. Additionally, the Panel holds that the long-time use of Tridenosen, containing a substance which has been banned at least since 2008, cannot be compared to cases where a substance has been allowed before and is recently put onto the List. Missing a change in the qualification of a substance as banned when it occurs may, if at all, only be seen as a mitigating factor for a short period of time after the change has been made.

119. The Panel finds no favour in the argument put forward by the Appellant, that because no prior anti-doping rule violations have occurred on his competition horses in the past, despite the routine application of Tridenosen to all his horses participating in multi-day competitions or travelling long distances, it allowed him to rely on the Product being clear of any Banned Substance. This absence of detection can in no way diminish the caution he has to apply. Further, the Appellant did not give any details regarding when and under which circumstances the alleged prior anti-doping testing took place. In this context, the Panel notes the Respondent's submission that its records show one single (negative) test of the Appellant's horses since 2013 (see # 81 above), a statement which the Panel sees no reason to put in question in the absence of evidence to the contrary.
120. The Panel concludes that the Appellant has seriously – and continuously for a long period of time - breached his duties under the EAD Rules. No factors have been put forward justifying the application of Tridenosen to Tina in March 2018 as “no significant fault or negligence”. Thus, Article 10.5.2 of the EAD Rules cannot be applied.

#### **B. No Prompt Admission**

121. Article 10.6.3 of the EAD Rules reads as follows:

*“Prompt Admission of an Anti-Doping Rule Violation after being Confronted with a Violation Sanctionable under Article 10.2.1 or Article 10.3.1*

*A Person Responsible and/ or member of the Support Personnel potentially subject to a two year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing Sample Collection or Tampering with Sample Collection), by promptly admitting the asserted anti-doping rule violation after being confronted by the FEI, and also upon the approval and at the discretion the FEI, may receive a reduction in the period of Ineligibility down to a minimum of one half of the otherwise applicable period of Ineligibility, depending on the seriousness of the violation and the Person Responsible and/ or member of the Support Personnel's degree of Fault”.*

122. Article 10.10.3 of the EAD Rules reads as follows:

*“Timely Admission*

*Where the Person Responsible and/ or member of the Support Personnel (where applicable) promptly (which, for the Person Responsible, in all circumstances, means before the Person Responsible competes again) admits the EAD Rule violation after being confronted with the EAD 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 EAD Rule violation last occurred. In each case however where this Article is applied, the Person who committed the EAD Rule violation shall serve at least one-half of the period of Ineligibility going forward from the date Ineligibility is imposed or accepted.*

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

123. The Panel holds that the undisputed sequence and timing of events – notification of the positive A sample on 19 March 2019, of the positive B sample on 14 May 2019, and admission of the anti-doping rule violation by the Appellant on 24 August 2019 – does not constitute “prompt admission”. Thus, Articles 10.6.3/10.10.3 of the EAD Rules do not apply.

**C.** [...]

124. [...].

125. [...].

126. [...].

127. [...].

128. [...].

129. [...].

130. [...].

131. [...].

132. [...].

133. [...].

134. [...].

## **IX. CONCLUSION**

135. The Appellant has neither established “No Significant Fault or Negligence” with regard to his anti-doping rule violation, nor “Prompt Admission” [...].

136. There is no place for any further reduction of the period of ineligibility imposed on the Appellant by the decision of the FEI-Tribunal. As the Decision has not been appealed by the Respondent the Appellant remains ineligible until 18 January 2020.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules:**

1. The Appeal filed on 1 March 2019 by Mr Mohamed Ahmed Owais against the decision issued by the FEI Tribunal on 27 February 2019, is dismissed.
2. The decision rendered by the FEI Tribunal on 27 February 2019 is confirmed.
3. (...).
4. (...).
5. All other motions and prayers for relief are dismissed.