



DECISION of the FEI TRIBUNAL

Alleged Horse Abuse of horse FLOGAS SUNSET CRUISE

dated 6 June 2017

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE

(the "FEI" or the «Claimant»)

vs.

Mr. Kevin THORNTON

(“Mr. Thornton” or the “Respondent”)

represented by Dr. Monika Gattiker, Attorney at Law, Gattiker Rechtsanwälte, Asylstrasse 39, Postfach 1669, CH-8032 Zürich (at the outset of the proceedings), and thereafter Lanter, Seefelstrasse 19, CH-8032 Zürich.

I. COMPOSITION OF PANEL

Mr. Laurent Niddam, Chair
Mr. Henrik Arle, Member
Dr. Armand Leone, Member

II. SUMMARY OF THE FACTS

1. Memorandum of case: By Legal Department.

- 2. Case File:** The FEI Tribunal duly took into consideration the Parties' written submissions received to date, as well as the oral submissions during the hearing on 4 May 2017, and on 2 May 2017 with regard to Dr. Tortereau.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Articles of the Statutes/Regulations which are applicable

Statutes 23rd edition, effective 29 April 2015 (the "**Statutes**").

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2016 (the "**GRs**").

Internal Regulations of the FEI Tribunal, 2nd edition, effective 1 January 2012 (the "**IRs**").

FEI Jumping Rules 2016, 25th edition, 1 January 2014, updates effective 1 January 2016 (the "**JRs**").

FEI Code of Conduct for the Welfare of the Horse.

2. Relevant Legal Provisions

GRs Article 142.1: "No person may abuse a Horse during an Event or at any other time. "Abuse" means an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse, including but not limited to:

- To whip or beat a Horse excessively;
- To subject a Horse to any kind of electric shock device;
- To use spurs excessively or persistently;
- To jab the Horse in the mouth with the bit or any other device;
- To compete using an exhausted, lame or injured Horse;
- To "rap" a Horse.
- To abnormally sensitise or desensitise any part of the Horse;
- To leave a Horse without adequate food, drink or exercise;
- To use any device or equipment which causes excessive pain to the Horse upon knocking down an obstacle."

GRs Article 169.6.2: "Abuse of Horses in any form (rapping, abnormal sensitisation or desensitisation of limbs, banned schooling methods etc.) may entail a fine of up to 15,000.- and/or a Suspension of a minimum of three (3) months up to life;"

JR - FEI Code of Conduct for the Welfare of the Horse: "1. General Welfare: (...)

b) Training methods

Horses must only undergo training that matches their physical capabilities and level of maturity for their respective disciplines. They must not be subjected to methods which are abusive or cause fear."

JRs Article 243.2.2:

"Excessive use of the whip

- The whip may not be used to vent an Athlete's temper. Such is always excessive;
- (...)
- A Horse should never be hit more than three times in a row. If a Horse's skin is broken, it is always considered excessive use of the whip;
- (...)"

IRs Article 19.24: "Unless otherwise stated in the relevant rules, the standard of proof on all questions to be determined by the Hearing Panel shall be the balance of probabilities."

3. Oral hearing: 4 May 2017 – FEI Headquarters, Lausanne, Switzerland.

Present:

The FEI Tribunal Panel
Ms. Erika Riedl, FEI Tribunal Clerk

For the FEI:

Mr. Mikael Rentsch, FEI Legal Director
Ms. Aine Power, FEI Legal Counsel
Ms. Anna Thorstenson, FEI Legal Counsel
Dr. Antoine Tortereau, witness (via telephone on 2 May 2017)
Ms. Marine Marguin, witness
Ms. Carine Henry, witness
Mr. Didier Fumeux, witness
Ms. Annick Wahlen, witness
Ms. Agathe Colle, witness (via telephone)
Ms. Christelle Bonniot, witness (via telephone)
Ms. Stéphanie Maynadier, interpreter

For the Respondent:

Mr. Kevin Thornton, Respondent
Dr. Monika Gattiker, Legal Counsel
Dr. Lara M. Pair, Legal Counsel
Dr. X, witness
Dr. Peter Cronau, witness
Ms. Susan Sinclair, witness (via telephone)
Mr. Jake Hunter, witness (via telephone)
Ms. Marlen Matter, partner of Respondent, observer

IV. DECISION

Below is a summary of the relevant facts, allegations and arguments based on the Parties' written submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, in its decision it only refers to the submissions and evidence it considers necessary to explain its reasoning.

1. Factual Background

- 1.1 Mr. Thornton is a 28-year-old rider with Irish nationality. At the time of the alleged horse abuse, Mr. Thornton was registered with the FEI with the ID number 10056297. His administering National Federation was Horse Sport Ireland.
- 1.2 The horse FLOGAS SUNSET CRUISE, a 10-year-old grey horse (the "**Horse**"), died on 10 October 2016 at the Hippodrome de la Cote d'Azur racetrack where the Cagnes-sur-Mer event venue is located. Prior to its death, the Horse was trained by Mr. Thornton on the racetrack. The Horse was acquired on April 2016, and according to its FEI passport, Mr. Thornton and Mr. Vinnie Duffy were co-owners of the Horse.¹

¹ Although both Mr. Thornton and Mr. Vinnie Duffy are indicated as co-owners of the Horse in the FEI Passport, only Mr. Duffy was referred to as the owner of the Horse throughout the proceedings.

2. Procedural Background

- 2.1 On 8 December 2016, the Chair of the FEI Tribunal nominated the Panel in accordance with Article 18.1 of the IRs. On 9 December 2016, the Respondent and the FEI respectively informed the Tribunal that they had no objection to the constitution of the Panel.
- 2.2 On 27 December 2016, pursuant to the IRs, in particular Articles 18.12, 19.4 and 19.10 thereof, and after receiving requests and comments from the Parties during a preliminary telephone conference call on 21 December 2016, the Tribunal issued Procedural Order No 1.
- 2.3 On 9 January 2017, and in accordance with Procedural Order No 1, the FEI submitted its restated Notification Letter in accordance with Article 19.4 *et seq.* of the IRs. A Notification Letter had already previously been sent to the Respondent, on 9 November 2016, but the Parties agreed during the conference call of 21 December 2016 to start the procedure anew.
- 2.4 On 6 February 2017, in accordance with Procedural Order No 1, the Respondent submitted its Answer to the Notification Letter in accordance with Article 19.7 *et seq.* of the IRs.
- 2.5 On 6 March 2017, the FEI submitted its Brief pursuant to Article 19.10.2(a) of the IRs.
- 2.6 On 3 April 2017, the Respondent submitted its Reply to the FEI's Brief, pursuant to Article 19.10.2 (b) of the IRs.
- 2.7 On 22 March 2017, and after previous consultation with the Parties the Tribunal issued Procedural Order No 2.
- 2.8 On 25 April 2017, and after previous consultation with the Parties the Tribunal issued Procedural Order No 3.
- 2.9 On 4 May 2017, upon request by both Parties, a hearing was held at the FEI Headquarters in Lausanne, Switzerland. Dr. Tortereau was heard on 2 May 2017 via telephone, as he was unavailable on 4 May 2017.
- 2.10 At the hearing of 4 May 2017, the Respondent was further represented by the Legal Counsel Dr. Lara M. Pair of Lanter, Seefeldstrasse 19, CH-8032 Zürich.

- 2.11 At the outset of the hearing, the Parties agreed that Mr. Thornton could be present during the entire course of the oral hearing including, prior to his own testimony, during the testimony of witnesses called by the FEI.
- 2.12 Furthermore, the FEI requested the scientific work of Dr. X to be dismissed, as such was not provided within the deadline foreseen in the IRs, *i.e.*, at least ten (10) days prior to the hearing. The Tribunal however rejected that request as the scientific work of Dr. X was substantially set out in the Respondent's submission of 3 April 2017.
- 2.13 Finally, the Respondent wished for Dr. X's name to remain confidential in the present decision, to which the Claimant did not object.

3. Claim

- 3.1 In its Notification Letter and in its Brief, the FEI alleged in essence that Mr. Thornton had engaged in horse abuse when galloping the Horse at the Cagnes-sur-Mer racetrack on the afternoon of 10 October 2016. The FEI submitted that Mr. Thornton's conduct was reprehensible, unacceptable and amounted to a clear breach of Article 142, more specifically 142.1 (i) of the GRs. For the FEI, the conduct was also a breach of the JRs Code of Conduct for the Welfare of the Horse with regard to training methods of a horse, which "*must not be subjected to methods which are abusive or cause fear.*"
- 3.2 The FEI submitted that Mr. Thornton was an experienced international level rider who participated in 353 FEI Events since February 2009. That the Horse participated at international level for the first time in October 2013, and that there were approximately 2.5 years (between October 2013 and June 2016) during which the Horse did not compete at all at international level. That Mr. Thornton did not achieve any results of note with the Horse, and that the results in the CSI 1* Event in Cagnes-sur-Mer, France, were not good either.
- 3.3 Together with its Notification Letter the FEI submitted statements of eight (8) eye-witnesses of the incident where the Horse died. In its Brief the FEI wished to draw the Tribunal's attention to the following extracts of the witness statements:

- "*Ms Annick Wahlen*

"I witnessed the cruelty Kevin Thornton demonstrated towards his horse"

".... I noticed that the above-mentioned rider [Mr Thornton] excessively used his switch for a long time and with great violence in order for his horse to keep galloping even though the horse could not move forward."

"He took it out on his horse for several long minutes on the straight line of the racecourse until the horse collapse."

Mr Didier Fumeux and Ms Sylvie Comment

"....and Kevin started a full gallop again by vigorously hitting with his whip on each stride. We noticed that Kevin was exaggerating with his behavior.....The horse collapsed on arrival to the cabin of the second guard."

Ms Christelle Bonniot

"...I was on the phone with a friend when I heard the noise of a whip. I saw a reluctant grey horse and his rider correct him and gallop on the track!"

"...we have seen the same horse gallop up and back, while being whipped on its buttocks!! He had a heavy gallop!...That's all I saw a correction² that lasted too long."

Ms Marine Marguin

"The horse was white with sweat, his nostrils dilated, his eyes bulging, several people tried to stop him verbally, without success. The horse finally stopped, began to tremble, neigh and fell to the ground dead."

Ms Carine Henry

"I saw Kevin Thornton starting on a big gallop do a whole lap of the big galloping track.....The horse was completely exhausted and Kevin whipped the horse and used his spurs."

"On arriving at the entrance of the horse track, the horse stopped and Kevin dismounted and wanted to walk the horse. His horse started to wobble and collapsed."

Ms Kelly Dupertuis

"I confirm that I saw....the rider Kevin Thornton forcing his horse to gallop around the arena during a long time. He was

² The FEI submitted that another translation of «mettre une correction» would be to hit or to beat.

using his stick abusely so that his horse doesn't stop. The horse finished to pass out and died in front of people who were trying to stop the rider without success. I consider that I saw animal abuse."

Ms Agathe Colle

"...I have seen Kevin Thornton running multiple lengths on the track in full gallop on his grey horse, using his whip many times. The horse seemed to be exhausted, when it stopped Kevin redoubled his blows."

- 3.4 The FEI argued that the witness statements left no doubt that Mr. Thornton used his whip excessively on the Horse to force it to continue galloping. The FEI acknowledged that it could not be stated conclusively whether the Horse was in "*pain or experienced unnecessary discomfort*," as per Article 142 of the GRs, as a result of Mr. Thornton's actions. However, that the Tribunal could conclude that the actions of Mr. Thornton inflicted unnecessary pain and discomfort on the Horse even in the absence of any veterinary report that could confirm that. It had not been possible to carry out a veterinary examination in the case at hand, as the Horse had tragically collapsed and died directly after the "training" session.
- 3.5 In this respect the FEI referred to Swiss federal case law, which allowed for certain determinations to be based on indications or on a high degree of probability. Further, that in the Court of Arbitration for Sport in the matter of *A., C., F. and K v Fédération Equestre Internationale*,³ a case which also dealt with an allegation of horse abuse, the CAS Panel considered that:

"According to Swiss federal case law, in the event that direct evidence cannot, or can no longer, be produced, the judge does not violate Article 8 CC (Swiss Civil Code) (rule concerning the burden of proof) by basing his finding on indications or on a high degree of probability (ATF [Swiss Federal Tribunal Decisions] 104 II 68 = JfT 1979 I 738, p.544). Furthermore, facts that must be presumed to have occurred in the natural course of events may be used as the basis for a judgment, even if they are not established by proof, unless the opposing part alleges or proves circumstances such as to cast doubt on their accuracy (ATF100 II 352, p.356)."

³ CAS 96/159 & 96/166, award of 27 March 1998, in Digest of CAS Awards II 1998 – 2000, page 454 ff.

- 3.6 With regard to the witness statements the FEI submitted that the FEI has no reason to doubt the veracity of the statements, and that the witnesses had no interest in making unfounded accusations against Mr. Thornton. The FEI therefore submitted that the witness statements alone proved, on a balance of probabilities (and indeed beyond) – as required by the IRs in accordance with Article 19.24 thereof – that Mr. Thornton engaged in horse abuse while riding the Horse on 10 October 2016 on the racetrack at Cagnes-sur-Mer.
- 3.7 Further, in the aforementioned CAS case that dealt with an allegation of horse abuse, the CAS confirmed that the so-called “*benefit of the doubt*” was not applicable in arbitration proceedings, such as these proceedings, as they did not resemble criminal proceedings, in which the principle of the presumption of innocence would be applicable. The FEI submitted in this respect that French police was investigating whether Mr. Thornton’s actions constituted a crime in France, and that the FEI had cooperated with various requests made by the French police.
- 3.8 The FEI further submitted that a simple denial by Mr. Thornton that he engaged in horse abuse would not be sufficient in the case at hand. In this regard, the CAS Panel in the aforementioned case has stated as follows:
- “Thus, the appellants have neither proved nor even asserted any circumstances such as to cast doubt on the course of events assumed to have taken place by the CAS Panel on the basis of numerous indications which, for their part, are firmly established.”*
- 3.9 In addition, the FEI indicated that an autopsy was carried out on the Horse by Dr. Antoine Tortereau, associate professor in Veterinary Pathology, on 14 October at the VetAgro-Sup, Veterinary Campus in Lyon France (the “**Autopsy Report**”). The FEI provided the Autopsy Report and a free translation thereof, which extracts read as follows:
- “The post-mortem examination did not bring out any significant, macroscopically visible lesions allowing to explain the cause of the death.”*
- (...)
- “Muscles: presence of about 10 locally spreading, dark red marks in the muscles of the right shoulder: moderate, recent muscular haemorrhage.”*
- 3.10 Together with the Autopsy Report, the FEI also provided a statement by Dr. Tortereau and a photograph (hereinafter the “**Photograph**”) to

illustrate the lesion referred to by Dr. Tortereau. Dr. Tortereau stated as follows:

"(...)

I certify to have observed macroscopically visible lesions compatible with recent muscular hemorrhages, moderate, affecting the right shoulder muscles. These lesions may have been caused by inflicted trauma, soon before the horse's death."

3.11 Moreover, the FEI provided a statement from Mr. Göran Åkerström, FEI Veterinary Director, who having reviewed the Autopsy Report and after discussions with Dr. Tortereau, specifically on the "Muscles" section of the Autopsy Report, stated as follows:

"(...)

Based on my review of the autopsy report and my subsequent discussion with Dr Tortereaus,⁴ I am of the view that it cannot be excluded that the presence of such marks could be indicative of excessive whipping of Flogas Sunset Cruise."

3.12 Furthermore, the FEI provided blood sample analysis results, which sample was taken from the Horse during the autopsy. The samples tested negative for any Prohibited Substances.

3.13 Together with its Brief, the FEI also submitted the report on the histology analysis (the "**Histology Report**") carried out on the Horse's lungs, kidney and liver. The Histology Report concluded that it was not possible to establish the cause of death from the histology analysis.

3.14 In its submissions, the FEI clarified that the FEI did not claim nor allege that the Horse died because of Mr. Thornton's conduct as the FEI did not need to prove this link in order to establish a finding of horse abuse. For the FEI, Mr. Thornton's excessive whipping of the Horse to force it to keep galloping and, by doing so, to go beyond its physical limits, indisputably constituted horse abuse. The FEI indicated that its position would be the same had the Horse not died; Mr. Thornton's conduct in the afternoon of 10 October 2016 amounted to a serious case of horse abuse.

3.15 Finally, the FEI submitted that horse abuse was very serious in nature. That to push a horse beyond its limits by whipping it and forcing it to continue to gallop, as Mr. Thornton did, displayed a wanton disregard for the welfare of the horse and amounted not just to horse abuse but to

⁴ It concerns a typological error. Mr. Åkerström means Dr. Tortereau. His name has also been correctly spelled in the previous paragraphs of his statement.

serious horse abuse, deserving a commensurate punishment. In this respect, all eight (8) witnesses, each of them involved in equestrian activities, considered Mr. Thornton's conduct to be wrong. The witnesses used words such as "cruelty," "violence," "exhaustion," "vigorously beating," "abusively," "reluctant," "eyes bulging," "forcing," "animal abuse." The FEI was further concerned that Mr. Thornton's Answer showed no remorse for his behaviour or any acknowledgement that his behaviour was incorrect or caused distress to the Horse.

- 3.16 The FEI considered that Mr. Thornton's behaviour was so wrong and the abuse of horse so clear and serious that Mr. Thornton should not be permitted to participate in equestrian events, at national or international level, or have any horses under his care or tuition for a significant period of time. The FEI submitted that a period of suspension from all equestrian activities (as regulated by the FEI or any FEI National Federation) of two (2) years was appropriate and proportionate in the present case. The FEI also requested that the Tribunal imposed a fine in the amount of 10,000 CHF, and awards costs to the FEI in the amount of 5,000 CHF.

4. Response

- 4.1 The Respondent denied the allegations of horse abuse. The Horse had not been abused in any way, nor did it show any signs thereof. It had neither been ridden excessively, nor did it show any signs thereof. There was no excessive use of the spurs and/or the whip. The horse was not forced to move forward beyond its abilities at all, meaning that it was also not chased by use of the whip and/or the spurs or otherwise to continue cantering even though it was exhausted. Mr. Thornton denied that he caused the alleged haemorrhage in the shoulder muscles of the Horse, by using the whip or otherwise. The death of the Horse had been a tragic event, and there had been no wrongdoing at all by him.
- 4.2 Together with his Answer and Reply the Respondent submitted two statements by Dr. Peter F. Cronau, veterinarian of Horseconsulting International, dated 15 October 2016 and 1 April 2017 respectively. In his first statement, Dr. Cronau explained that on 14 October 2016 he had joined the pathologic team when the Horse had already been pulled up on one hind leg and partly eviscerated. At that point in time he had found the Horse in an advanced state of autolysis⁵. He further stated as follows:

⁵ Autolysis has been defined by Dr. Cronau as follows:

"Autolysis is a well-known post-mortem decomposition and means the disintegration of cells or tissues by endogenous enzymes. The changes take place at a fairly

"I personally could not detect rupture of blood vessels – especially not from the aorta.

I could control parts of the skin lying on the floor and located at the hanging torso. I was able to see that neither sweat nor sweating consequences (incrusted areas, change of skin surface etc.) could be registered. Admittedly is this difficult after a few days of death. But it could at least be stated that the existent skin was undamaged. This refers also to possible spur marks."

4.3 In addition, Dr. Cronau stated in his "Preliminary Report" statement of 15 October 2016 that:

"(...) Due to not comprehensible reasons did the horse suddenly collapse and died immediately. It is understandable at this moment of investigation that I do not comment on reports around the situation of the training methods at the racetrack. It is certain that the horse passed away on a so-called "sudden death".

4.4 In his second report Dr. Cronau stated that it was surprising to him that the examining pathologist did refer only to the anatomic region "shoulder," and not specify to the exact muscles. Furthermore, the pathologist referred only to "taches", i.e., spots or marks, and did not describe where the marks are located, nor the size, the deepness and the amount of possible haemorrhage. The only classification was "dizaine" (approximately 10) and "sombre" (dark). A classification was added as "modérée" (moderate). Dr. Cronau further stated as follows:

"The description that haemorrhage (not hematoma, explanation later) has been detected means that ruptured blood vessels within the de- scribed shoulder muscles are the cause of that phenomenon. No external trauma especially no whip abuse could have produced "a dizaine de taches". If hypothetical external trauma would have been the reason for the intramuscular haemorrhage, the skin must show lumps or/and perforations. Also in this improbable suggestion subcutaneous haemorrhage would rather be observed.

Provided an intramuscular haemorrhage would exist, it would have to result from another reason (not the whip), e.g.

predictable rate, depending on body temperature at the time of the death and environmental temperature once death has taken place. Decomposition begins almost as soon as blood supply stops. With the breakdown of haemoglobin discoloration appears as mottled and reddened areas that can be mistaken for bruised, particularly in the extremities or other parts of the body where there is pooling of blood."

- *death agony*
- *trauma from a pole in competition or training*
- *fall on the right shoulder*
- *fall on the left shoulder by overstretching the contralateral (right) shoulder muscles"*

4.5 With regard to the Photograph Dr. Cronau stated as follows:

"(...) Various dark spots of different size (approximately 4-5 mm) can be found sporadically within the muscles but also within the intersected skin (three points) and subcutaneous tissue (three points).

There is no doubt that these dark points do represent a kind of clotted blood. Most of the bloody spots are shaped round. Blood is not penetrated uncontrolled into the adjacent muscles or connective tissue. It looks typically evident that the dark spots are a result of crosswise- intersected blood vessels. Since the clotted blood is not a result of a ruptured vessel, the technical terminus "haemorrhage"⁶ is not approved and according to the medical vocabulary definitive wrong. We are talking from haemorrhages, when blood does escape from a vessel. This is not approved within the tissue in question. (...)"

4.6 Dr. Cronau stated that no findings within the Autopsy Report and the death of the Horse correlated. A fall could be one of the reasons for a muscular haemorrhage; no haemorrhage was observed. The marks described as haemorrhage within the shoulder muscle of the Horse were *"with a probability close to certainty not caused by a whip or similar object."*

4.7 Finally, Dr. Cronau explained that whip abuse was a rather delicate matter. In 2011, the British Racing authority adopted a new rule, in which a jockey in a flat racing was not permitted to hit a horse more than seven (7) times in the final furlong. The FEI does not forbid the use of a whip. The GRs stated *"it is not allowed to whip or beat a horse excessively,"* and the respective rules in Jumping stated *"excessive use of the whip"* was not allowed. Whip abuse - especially excessive whip abuse - always caused changes of the skin like *"wales."*⁷ These changes could easily be discovered without magnifying but only by normal inspection. Consequently, if one could not detect welt, there has not been any excessive use of a whip.

⁶ Dr. Cronau provides the following Definition of Haemorrhage: *"Haemorrhage: is the escape of blood from a ruptured vessel. Haemorrhage can be external, internal, or into skin and other tissues. Blood from an artery is bright red and comes in spurts; that from a vein is dark red and comes in a steady flow (Saunders Comprehensive Veterinary Dictionary)."*

⁷ Dr. Cronau here refers to "weal" or "welt," as clarified during the hearing of 4 May 2017.

4.8 Together with his Response, Mr. Thornton further provided witness statements by Mr. Jake Hunter and Ms. Susan Sinclair, an international trainer and former rider, and who had helped the Respondent with his horses training in Cagnes-sur-Mer at the time of the incident.

4.9 Mr. Hunter stated as follows with regard to the incident:

"(...) I was present in Cagnes Sur Mer on the 10th October 2016, I witness Kevin Thornton ridding his horse Flogas Sunset Cruise from the stable to the Gallop track. At the entrance to the Gallop track the horse began to rear dangerously a number of time, for no apparent reason.

Kevin had tried to bring the horse around quietly so that he would stay relaxed but he persisted dangerously to rear, Kevin was forced to hit him with his whip a maximum of 3 time on his back end so that the horse went forward.

Flogas then appeared to then go normally away from the entrance in canter but then bolted I could see in the distance Kevin struggling to hold him, then he passed the top bend. From what I could see the horse kept pulling Kevin extremely until they had reached the other side of the track, when he seemed to regain slight control.

Upon arrival at the entrance again Kevin proceeded to keep cantering away from the gate, Flogas went slightly towards the gate again but Kevin managed to coax him forward by throwing the reins forward and waving the stick but he did not repeat to hit him like he needed to on the first occasion. He rode to the front of the grand stand and then turned and returned to where I was standing, as he tried to turn and ride away again from the gate, the horse began to nap and Kevin managed to get him going forward again by waving the stick and putting his hands forward to invite the horse to move to the direction he was pointed, he did not hit the horse with the stick on this occasion but was more chasing him with it like a racing jockey if he did make some contact with the horse then it was very slight.

Flogas then cantered off again and after a number of strides without a problem, Kevin returned to walk and patted him on the neck, moments after Kevin had dismounted and the horse slowly collapsed to the ground.

In my opinion Kevin did the best he could to get the horse to go forward and was in no way abusive to the horse. Kevin did not force the horse to canter on, when it was tired. The horse did not even sweat."

4.10 Ms. Sinclair stated as follows with regard to the incident:

"(...) In general I would describe Kevin as a very passionate horse man and a quiet rider. In regard to the unfortunate death of Flogas Sunset Cruise, I was present in the stables at the time of the incident. I can verify that Kevin had only been riding Flogas for approximately 15-20mins this including the long hack to the gallop track. In this time I had washed of the horse Kevin had previously ridden "Startschuss" put him in his box and proceeded to the arena to give Kevin a hand while he was working Flogas. Kevin was always very quiet and careful with Flogas as he had a bit of a special character but had found a friend in Kevin as a result of his quiet and patient way with him. From what I have seen from Kevin in the handling of his horses of a day to day basis and his care of Flogas, I would never for one moment believe Kevin would be abusive to any horse. (...)"

4.11 Ms. Sinclair furthermore confirmed that throughout her time in Cagnes-sur-Mer and during other competitions she had never witnessed any signs of mistreatment or abuse of any horses by Mr. Thornton.

4.12 The Respondent provided additional statements from Mr. Niall Talbot, Ms. Judith Schläppi and Mr. Vinnie Duffy of Duffy Sport Horses, the co-owner of the Horse, which accounted for his character and qualified Mr. Thornton as a knowledgeable horseman with calm and understanding demeanour. Mr. Vinnie Duffy also stated that he would recommend Mr. Thornton to any other horse owners. Finally, the Respondent provided statements by two veterinarians (one of whom was also put forward as expert witness), who respectively confirmed that they had not seen any "bad treated" horses in the stables of the Respondent, and that the horses were always in good general condition.

4.13 In essence, the Respondent argued as follows:

- a) He had been riding since he was 4 years old, and competing on both horses and ponies up to international level. He was now a professional rider and horseman, who has been domiciled in Switzerland from June 2010 to the end of January 2017, when he moved to Belgium.
- b) At the beginning of May 2016, *i.e.*, five (5) months prior to the incident, he had been offered to ride the Horse. That he that actually competed in more

events with the Horse, both on a national and international level, than the FEI was stating. In this respect the Swiss National Federation only recorded placings, which was different from the FEI records. The Respondent provided records from national competitions of 28 May 2016, 5 June 2016, and 12 June 2016. The Respondent also provided video material of him riding the Horse, without carrying any stick and no spurs. Furthermore, the Respondent referred to an example where he had been taking the Horse to an international competition in Wiener Neustadt at the beginning of July 2016, and where he decided to no longer compete after he got eliminated, and as the Horse did not settle well at the show. He had even tried to organise transport back to Switzerland. The Horse however got a colic and had to go to a clinic for three (3) days (an invoice by the clinic has been submitted in this respect). The veterinarian suggested a break of six (6) weeks, *i.e.*, until 16 August 2016, but he had only started competing again with the Horse at the end of September 2016. That this example showed that he actually had been concerned about the Horse's welfare.

- c) With regard to the incident in Cagnes-sur-Mer the Respondent submitted that upon arrival the Horse was fit and in super form, and that in the first days of the competitions the Horse had rather been hot and strong, even difficult. That, after discussions with the owners it had been decided to exercise the Horse on the gallops, *i.e.*, some change of training method as preparation for the second show week.
- d) The Respondent submitted that on 10 October 2016 the Horse had been in a normal bit (snaffle) and that the Horse suddenly acted up (rearing up) at the entrance. That he had used his whip once or twice to get him moving forward, and that this had been the first time he had ever used the whip on the Horse. Further, that the Horse cantered off normally and then suddenly bolted off. After the big bend (on the racetrack) the Horse slowed down to a normal working canter. Back at the gate the Horse started acting up (rearing up) again, so he chased the Horse forward by throwing the reins at him and waving with the whip but not hitting the Horse. After about 100 metres he turned the Horse around to ride back to the gate. At the gate the Horse reared up again, so he made him canter a few strides and then turned around and patted the Horse. When he got off the Horse, it suddenly collapsed and died.
- e) The Respondent explained that the Horse suddenly felt weird underneath him when he was walking back to the gate. That he had been sitting on the Horse only for 15 to 20 minutes, including the long hack to the gallops. The Horse did not sweat nor breathe heavily. There was no explanation for its tragic death.
- f) That the weird behaviour might be explained by the imminent sudden death. In this respect Dr. X had done scientific work on horses that

suddenly died including their behaviour just before they died. That according to his research the behaviour of these horses was always very unusual, they acted completely different from their normal behaviour (totally out of character). The Respondent stated that he could not explain the behaviour of the Horse, but that he would never have thought that the Horse had any serious condition. Further, that his reaction to the rearing up of the Horse had been absolutely appropriate. He had just made the Horse go forward without punishing it.

- g) Finally, that none of the actions by him constituted any abuse of the Horse, especially as the Horse showed no sign of abuse. Riders were aware that all horses sweated after normal exercise, and they would sweat a long time before they were exhausted. The Horse had not even reached the level of normal work, which had been confirmed by Dr. Tortereau and Dr. Cronau.
- h) For the question of horse abuse it was only relevant whether a horse has been ridden excessively, chased excessively or where a whip or spurs have been used excessively. Neither had taken place, therefore the claim of horse abuse had to be rejected.

4.14 The Respondent further argued that the witness statements upon which the FEI relied were completely contradictory and inconsistent. The certifiable findings of the veterinarians had a much higher credibility than the subjective allegations of the witnesses, and the veterinaries' findings showed that there had not been any horse abuse.

4.15 In this respect no specific findings existed which would explain the death of the Horse. The Autopsy Report did not mention any skin lesions which could be associated with horse abuse, despite Mr. Åkerström having clearly requested Dr. Tortereau for signs of subcutaneous bleeding, whip and spur marks etc., which Dr. Tortereau did not confirm. Neither did Dr. Tortereau mention that the Horse had been sweating, and Dr. Cronau expressly denied sweating or signs of sweat (sticky coat etc.). Everyone who had been around horses knew that horses sweat a long time before they are exhausted or "beyond its physical limits" as alleged by the FEI. Further, that the lack of sweating also showed that the Horse was not afraid, because fear meant stress, and a stressed horse sweats.

4.16 Furthermore, Dr. Cronau did not see any signs of abuse (spur or whip marks). No skin lesions that could have been caused by a whip and no subcutaneous bleeding or lesions had been visible. Regarding the "dark spots" in the right shoulder of the Horse, Dr. Cronau conclusively explained that it was not possible to cause lesions deep in the muscle with a whip without causing visible damages/lesions on the skin or subcutaneously. The explanation of Dr. Cronau, *i.e.*, blood that clotted in the blood vessels when the heart stopped beating, had a much higher probability than the

statement of Mr. Åkerström, which was only speculation, and who clearly admitted that "he cannot exclude", which meant that it was "rather unlikely". From a scientific point of view, it could indeed be excluded with a probability close to certainty that the spots were not caused by a whip. Further, that the Horse did not experience "pain or unnecessary discomfort" at least no such had been caused by Mr. Thornton. In fact, by way of example to illustrate the point, the Respondent pointed out that it was not possible to damage a car seat in a car accident if the outside of the car was not damaged. The same applied with the Horse and the whip.

- 4.17 Regarding the standard of proof, the Respondent argued that regardless of Swiss law or of the IRs, the following applied: (a) *negativa non sunt probanda*, (b) the FEI bore the burden of proof for horse abuse, and (c) the FEI had failed to prove horse abuse. That there was no conclusive evidence for horse abuse.
- 4.18 More specifically, in accordance with Article 19.23 IRs, the FEI bore the burden of proof for the alleged horse abuse. According to the CAS in the aforementioned decision, and also as confirmed by the FEI Tribunal (Alleged Horse Abuse Case 2008/01) (the "**Sundancer Case**") horse abuse had to be proven with a high degree of probability. The CAS panel in the Sundancer Case was of the opinion that the "*Panel had acquired a profound conviction that all appellants behaved reprehensively.*" For the Respondent, a "*profound conviction*" was equivalent to "a high probability," and the balance of probability – at least under Swiss law – provided a much lower standard of proof. Furthermore, the Sundancer Case clearly showed that riders and event officials could make false and misleading statements against a person, even though there was no apparent reason for the false accusations and the false statements. That the same was the case in the case at hand; the witness statements were not true, and were contested by the Respondent.
- 4.19 Finally, the Respondent contested that there was any ongoing criminal investigations in France. The FEI did not submit any evidence in this regard, and the Respondent had never been summoned or questioned.
- 4.20 In conclusion, the Respondent considered that the FEI failed to prove horse abuse, and therefore the claim of the FEI must be dismissed. Furthermore, the Respondent requested the FEI to pay 20'000 CHF as compensation for the costs caused in the proceedings.

5. Supplemented submission by the Respondent

- 5.1 On 2 May 2017, the Respondent provided a translated version of a poster⁸ presented at an Equine Medicine conference to which Dr. X participated. The translated version of the poster states as follows:
- "The purpose of this international questionnaire-study was to find out the details about the course of events including the death cause and potential injuries of the riders related to these sudden death cases of sports and leisure horses during or shortly after the activity."*
- 5.2 It furthermore states that out of 57 cases, 41 horses collapsed during exercise and 16 shortly after exercise. Further, from 16 out of the 57 horses the cause of death could be determined based on an autopsy, and that the autopsy in 13 of the 16 cases showed a finding in the cardiovascular system.
- 5.3 The Summary/Conclusion of the poster stated as follows:
- "Cases of sudden death can occur in all disciplines, and in competition as well as in training. (...)"*

6. Hearing

- 6.1 Dr. Tortereau had been already heard on 2 May 2017 via telephone, as he was unavailable on the date set for the oral hearing, *i.e.*, 4 May 2017.
- 6.2 In answering the Respondent's questions, Dr. Tortereau stated that the section shown on the Photograph concerned the triceps muscle. He clarified that the dark spots were not from crosswise- intersected blood vessels, but that it concerned a real haemorrhage. That when only looking at the Photograph, this could be misleading, and one might believe that it concerned only cross-sections of blood vessels, which was not the case. Finally, when requested whether he could imagine whether a whip could cause such a bleeding despite the fact that there were no traces on the skin of the Horse. Dr. Tortereau stated that this was one possibility. He explained that the fact that one could not see any marks on the skin, did not preclude any more profound haemorrhages such as shown on the Photograph. He was however not in a position to say anything about the cause of the trauma.

⁸ The Tribunal has taken note that the FEI requested the Tribunal to disregard the contents of the poster, as it was submitted outside of the timelines specified in the IRs.

- 6.3 In accordance with Article 19.34 of the IRs, each person heard by the Tribunal was asked to tell the truth, the full truth and only the truth. Witnesses were made aware by the Tribunal that they should not guess nor invent any answer, and if they did not know the answer to a question or were unsure, to just say so. Witnesses were examined and cross-examined by the Parties, if they wished to do so, as well as being questioned by the Tribunal.
- 6.4 The Parties had full opportunity to present their cases, submit their arguments and answer to the questions posed by the Tribunal. After the Parties' final submissions, the Tribunal closed the hearing and reserved its final decision. The Tribunal heard carefully and took into consideration in its discussion and subsequent deliberation all the evidence and the arguments presented by the Parties even if they have not been summarized herein.
- 6.5 At the end of the hearing, upon being questioned by the Tribunal, the Parties acknowledged that they have had the opportunity to be heard and to present their case, and that they had no objection to the conduct of the proceedings.

Additional statements by witnesses of the FEI:

- 6.6 During the hearing Ms. Wahlen, Mr. Fumeux, Ms. Marguin and Ms. Henry were heard in person, while Ms. Bonniot and Ms. Colle were heard via telephone. In essence, the witnesses confirmed their written statements, and further recalled what they had seen with regard to the incident on 10 October 2016 on the racetrack in Cagnes-sur-Mer. All witnesses confirmed that they had put their names down with the organisers at the racetrack, and signed a pre-written witness statement on the day of the incident. The witnesses further explained that they had been contacted by the FEI and asked whether they would agree to provide the FEI with a witness statement in their own words⁹. All witness statements submitted by the FEI with its claim have been received by the FEI within a few days following the incident.
- 6.7 **Ms. Wahlen** stated that she owned, raced, trained and rode horses. She confirmed that she had seen cruelty and excessive use of a whip, and that the whipping of no more than ten (10) minutes on the buttocks of the Horse had been done with anger, and that the rider had been quite irritated. She testified orally that she had seen a horse, *i.e.*, the Horse,

⁹ The FEI explained that it had preferred to collect individual witness statements, rather than using the pre-written statements from the organisers and signed by the witnesses. Further, the FEI only included the individual witness statements in their claim, and decided not to rely on the pre-written statements from the organisers.

that was out of shape, lacked oxygen and was physically weak. Ms. Wahlen considered furthermore that the Horse had not been galloping as it should have. Finally, she had for sure seen one back and forth on the strait of the racetrack.

6.8 **Mr. Fumeux** stated that he has been riding since he was 15 years old (now 53 years old) that he was a Swiss national competitor, and that he held all licenses for training in Switzerland. He testified that he was walking along the track with his wife, Ms. Comment and that it had been Kevin Thornton riding the Horse prior to the incident. Mr. Fumeux indicated that there was a co-worker of Mr. Thornton standing at the end of the track holding two (2) whips. That the Horse had turned around galloping, and had then refused to gallop down the track. Mr. Fumeux stated that he had seen Mr. Thornton a maximum of 10 minutes, of which 4-5 minutes were within 20 meters from him and his wife Ms. Comment. According to Mr. Fumeux, Mr. Thornton was whipping the Horse very heavily behind the legs, on the flanks and on the buttocks; whipping of around 10 times in front of them. That the whipping had been violent and with rage, and that it had not been productive for the Horse. Furthermore, that Mr. Thornton had dismissed some calls made by a steward. In this respect, the steward had confirmed to him and his wife that Mr. Thornton had gone around the track once and that the steward had tried to stop him. In addition, Mr. Fumeux stated that towards the end of the morning of 10 October 2016 he saw Mr. Thornton hitting a horse's head with a whip inside the box of that horse.

6.9 **Ms. Bonniot** stated that on 10 October 2016, while she had been on the phone with her friend and walking one of her horses at the Cagnes-sur-Mer racetrack, she had heard some whip lashes which scared her mare. That it looked like that the Horse was frisky and got "beaten up" in order to make it go. That she had thought that the beating had been a "bit over the top; a bit excessive." Further, that she had brought her horse back to the stables, and that when she came back to the racetrack, she had seen the Horse being whipped on its buttocks to make him go faster. However, even with the whipping the Horse did not go faster. She confirmed that she had seen the Horse while being ridden back and forth on the strait of the racetrack at least once. Further, that she had been standing with Ms. Marguin around 5 to 10 meters from the happenings. Finally, she estimated that the Horse had been whipped around 2 to 4 minutes both times, *i.e.*, at first when her horse got scared and thereafter when she came back to the racetrack and stood with Ms. Marguin, and that this had been within a timeframe of around 25 to 30 minutes. Ms. Marguin provided her with the email address of a person at the FEI whom she knew personally and told her that it was important to report the incident,

which she did. However, she had not talked about her statement with Ms. Marguin since the incident in Cagnes-sur-Mer.

6.10 **Ms. Marguin** stated that she worked with horses for nine (9) years, and as a freelance groom in Switzerland for five (5) years. She stated that she had been walking a horse on the track that was directly above the main racetrack. She had seen Mr. Thornton riding a grey horse going back and forth on the galloping track. At first she could see that Mr. Thornton was "a bit on the edge," and thereafter she saw that the horse became frisky. She had taken her horse back to the box as it had been scared from the noise on the track. Ms. Marguin stated that Mr. Thornton had constantly whipped the Horse on its buttocks. She believed that the whip was rather a dressage whip. That as a groom she considered this whipping not normal in terms of how long it took. She could understand a person trying to control a horse which got frisky, and that in their profession things could "get slippery," but here, the whipping by Mr. Thornton had definitely been too long. Furthermore, that there had been someone waiting with a stick or a whip. That at some point in time this person with the whip had been standing in front of the Horse. However, since she had been too far away, she could not tell whether this person had been hitting the Horse, or just gesturing at the Horse. That the Horse had gone from cantering, to trotting to stop and then it had collapsed and died. That this happened very fast, and that she believed that when the Horse stopped Mr. Thornton jumped off the Horse. In her view he must have noticed that there was something wrong with the Horse. Ms. Marguin explained that what she had witnessed lasted at least 20 minutes. Finally, Ms. Marguin stated that she had been very shocked by what she had seen and that this had been the reason for her to report it. That she had gone to the organisers and had given her testimony, and that she provided the FEI with her statement via email. Further, that she had provided Ms. Bonniot with the email address of a person she knew at the FEI.

6.11 **Ms. Henry** stated that she was a rider as well as a teacher. She confirmed that it was Mr. Thornton riding the Horse. She also explained that she was not a very sensitive person in situations where a rider needs to correct a horse, but that she had been really shocked by the rage of the rider and the violence she had seen. Further that her horse got scared. She stated that Mr. Thornton was hitting the Horse on the backside, using a whole range of motion from the front to the back. She had however not seen which kind of whip he used, she only recalls that it was very loud. She further stated that she had seen the Horse galloping once around the entire race course, and that when the Horse came back towards her, the Horse was exhausted, had tired eyes, was breathing very heavily, and could not gallop anymore. Ms. Henry indicated moreover that a steward had asked Mr. Thornton to stop, and he got off the Horse and pulled it

quite violently to move it forward. That the Horse then collapsed and died. When asked, she stated that she had not seen any other person on the racetrack, but that there had been someone from Mr. Thornton's entourage who had been quickly there when the Horse collapsed.

- 6.12 **Ms. Colle** stated that she was a rider and a groom, and that she saw the incident from a distance of about fifteen (15) meters. That she had heard the Horse while preparing her horse, and that she could witness the galloping of the Horse of at least two (2) back and forth of the strait of the racetrack. She had seen Mr. Thornton, who seemed quite angry, whipping the Horse - like in tennis back side - violently mainly on its buttocks, and hitting him more when it stopped. That the Horse seemed quite exhausted and that it seemed that the Horses' eyes were bulging.

Additional statements by witnesses of the Respondent:

- 6.13 **Ms. Sinclair** confirmed the content of her written statement. She further indicated that she has known Mr. Thornton for the past five (5) years, and that she had helped him several times during shows, as a friend without any remuneration. With regard to the Horse, she confirmed that it had been eliminated the day prior to the incident and that - if she remembered correctly - the Horse jumped three (3) fences and then refused to go further. She had not seen the Horse at competitions prior to the Cagnes-sur-Mer competitions, and that she did not know the Horse very well. She indicated however that the Horse had "a bit of a special character," and was "very sensitive," which required an experienced rider such as Mr. Thornton. Ms. Sinclair confirmed that she did not witness the incident on the racetrack.
- 6.14 **Mr. Hunter** confirmed that he was riding for Duffy Sport Horses (Mr. Duffy is also the co-owner of the Horse) that he knew Mr. Thornton well, and that he had been in Cagnes-sur-Mer as a competitor. Further, that the entire training with the Horse lasted for around 15 to 20 minutes, and that he had witnessed the entire training session since he was standing at the entrance of the racetrack, holding a dressage stick (he had not used it). Mr. Thornton had asked him to hold the dressage stick, as he was planning on using it on further training with the Horse on the flat afterwards. Mr. Hunter indicated that he saw Mr. Thornton hit the Horse at the entrance where he was standing a maximum of three (3) times. That he could however not see the far end well enough, and that it was possible that Mr. Thornton might have used the whip, but that he did not see that. When asked, Mr. Hunter indicated that there had been nothing unusual and this was a normal training session.

- 6.15 In answering the question whether it was normal for a jumping rider to use a dressage whip, Mr. Hunter stated he was occasionally training horses with a dressage whip, but that that would be done for a specific purpose, "whenever it's needed."
- 6.16 Regarding the Horse, Mr. Hunter stated that it had been a sensitive horse. That in this view, the Horse had been acting dangerously, but it seemed physically normal, *e.g.*, no signs of exhaustion. Upon request whether this was the Horse's normal behaviour, Mr. Hunter stated that he would not know that, as he did not know the Horse well enough. Finally, that he did not recall anyone trying to stop Mr. Thornton during the training session or any stewards on the ground.
- 6.17 **Mr. Thornton** also appeared as witness and gave his version of the event. With regard to the ownership of the Horse, he stated that the agreement with Mr. Duffy was that would take care of the Horse's expenses. Regarding the Horse he stated that it was a sensitive horse but not a difficult one. In his view, the Horse was talented and powerful, and that he had been patient and put a lot of time into the Horse. That the Horse had the ability to jump at 2* events but that it had been hard to get consistency. Furthermore, that the Horse had done well at national shows, but not on international shows when it was away from home. Moreover, that the Horse had been shy, so also in Cagnes-sur-Mer where in the first week prior to the incident, it had to walk behind Ms. Sinclair.
- 6.18 Regarding the incident, Mr Thornton explained that he went to the stables at around 11 am, and that he had been taking care of horses, including the Horse, prior to riding them. That the Horse was the last that day to go to the gallop track. That he had asked Mr. Hunter to come with him during the training session as he did not want to ride the Horse on its own. His intention was to go and do "flat work" with the Horse. Upon being asked, he confirmed that he had been "half" anticipating a problem, and that that was the reason why he did not want to go and train the Horse alone. Moreover, when requested whether bringing a whip was a change in training method, Mr. Thornton answered, not really, as when he rode the Horse at home, he rode him with a dressage stick, and when he goes jumping he does not take any stick.
- 6.19 Mr. Thornton indicated that the Horse was not normally a horse that would rear-up, but that it did on that day at the in-gate of the gallop track. He hit the Horse two (2) times - not excessively - on the buttocks with a short stick. The Horse bolted and he was not able to stop it. The Horse got normal again only on the other side of the racetrack. When they were back at the in-gate, the Horse had gone side-ways. That this

time he had not hit it but only waived the stick at it. After the Horse had again gone side-ways he hit it only one (1) time. Thereafter the Horse had done eight (8) to nine (9) strides very normal, until it stopped. At this point in time he felt that the Horse was not right, a bit strange. He pulled the Horse forward without force, and then it fell on the ground.

- 6.20 Mr. Thornton stated that he had been waiving the stick to show the Horse that the stick was there, and that in his view someone might have mistaken that for hitting. He did not want to lose control of the Horse again as he did when he hit the Horse the first time and lost control for 1,000 meters. He had been almost overwhelmed by the Horse's reaction when he hit it the first time so it was logical not to hit it again. Furthermore, that he had just taken the stick as an insurance policy, and that he had not planned on having to use the dressage stick. When questioned whether he was angry, he stated that he had acted normally and had not been agitated when the Horse bolted off. Just because witnesses said that he was angry does not mean that this was true; this was, for Mr. Thornton, just the witnesses' personal assessment.
- 6.21 Finally, Mr. Thornton explained that there had been some kind of conspiracy going on, a vendetta against him, and that all the witnesses knew each other and were in a certain way related to each other. Mr. Thornton laid the blame on what was happening to him in this case on a certain family with whom he has been having some differences unrelated to the case at hand. Mr. Thornton conveyed to the Tribunal his conviction that the witnesses have testified against him as part of an orchestrated vendetta that started within minutes of the Cagnes-sur-Mer incident, and with the subsequent complicity of the FEI or certain of its personnel.¹⁰
- 6.22 **Dr. X** confirmed at the outset that was a veterinarian who had treated Mr. Thornton's horses in the past. He further stated that the scientific study was currently under peer review and therefore could not be published until this process was finalised, which he expected to take at least six (6) months. Thereafter, Dr. X explained how the study was conducted, including its weaknesses, such as the participation of only nine (9) National Federations, and thus not including all cases of sudden death, or since it is a retrospective study, subject to people's reduced recollection for incidents that happened a long time ago.
- 6.23 Dr. X explained that sudden death of horses occurred very, very rarely. That 20 out of the relevant 57 cases in his study reported that the

¹⁰ Since the Respondent raised the matter of a conspiracy/vendetta against him for the first time during the hearing, and did not provide any evidence in support of this allegations (as outlined further below), the Tribunal does not consider it necessary to outline specifics of his statement in this respect.

horses had lost their complete coordination prior to the sudden death, and that 16 horses had slowed down. He confirmed that there was always a strange behaviour of the horse before it died of sudden death. That unfortunately, the questionnaire did not ask how long it was from the point a horse started behaving strangely to the sudden death. That from his experience as a team veterinarian and race veterinarian he had seen eight (8) cases of sudden death. That there were no signs or symptoms, and that the sudden death came as a complete surprise and was not foreseeable. That a rider could feel that something was wrong with that horse, and that that horse was no longer behaving normal anymore, *e.g.*, it tries to stop, or you cannot steer it anymore, and then different symptoms might arrive.

- 6.24 When asked how long the abnormal behaviour would have typically lasted, Dr. X explained that as the blood would not properly reach the brain, he estimated the symptoms would last from a few seconds to no more than 1-2 minutes until sudden death occurs, and that it might be longer depending on the blood supply to the brain. Finally, Dr. X explained that while a horse could die from exhaustion, this was never reported as a sudden death. He would expect that horse to first have functional problems before dying of exhaustion.
- 6.25 **Dr. Cronau** explained that the skin of a horse is seven (7) times thicker than human skin. Furthermore, that one would speak of haemorrhages when blood is coming out of the vessels, but in his opinion that was not the case in the Photograph. In that case, as shown in the Photograph, the blood got stuck and that was the reason why one could see dark spots below the skin in the shoulder area of the Horse. In his opinion, only a stump trauma could cause a haemorrhage, and that a whip could not cause a stump trauma.
- 6.26 With regard to a whip used on the buttocks of the Horse, Dr. Cronau stated that he did not personally or from the documents and pictures, see any welts or alterations on the skin of the Horse. According to him, it was not possible to use a whip on a horse – even moderately – without leaving any mark. In his opinion therefore, there had not been any reaction on the skin of the horse evidencing whipping. Dr. Cronau confirmed that welts caused by whipping would show for more or less five (5) days on a living horse, and longer on a dead horse. In his opinion each whip use would have shown one welt on the Horse. The development of welts however depended on the force used when using the whip, which would have certainly been the case where a horse is abused. Dr. Cronau further stated that there existed no scientific articles on whip use, and that one could use a whip even not excessively and still cause welts on the skin; the same with spurs. He confirmed that

there is no study; it was his experience being around horses to see what happens when a horse is whipped excessively.

- 6.27 Regarding whether a horse would sweat when it is being worked hard, Dr. Cronau stated that normally a horse sweats, but it depended on each individual horse. He was aware of one extreme case where a horse would not sweat and had to be removed to a cooler climate but this was an exceptional situation. Dr. Cronau confirmed that he did not see the Horse alive, and therefore could not say whether the Horse was a horse who would generally sweat a lot or not. When asked whether a horse could die of exhaustion, Dr. Cronau replied negatively.
- 6.28 Finally, Dr. Cronau clarified that he had not "examined" the Horse, but "attended" the autopsy, and that in his view it was sufficient to observe such autopsy to come to conclusions. Dr. Cronau added that he was not a pathologist but that he had pathological knowledge and that he has seen at many post-mortems. With regard to the statement in his Preliminary Report that: "*[I]t was certain that the horse passed away on a so-called 'sudden death',*" he clarified that he "assumed" that it was a case of "sudden death".
- 6.29 As a general proposition, the Parties in essence maintained at the hearing what they said in their written submissions, and further argued as outlined below.

Submissions by the FEI:

- 6.30 The FEI argued that there had been eight (8) eye-witnesses of which six (6) were heard during the hearing. They are all equestrian people and knew where the acceptability line was, and that Mr. Thornton had gone far beyond that line. All witnesses confirmed that they saw Mr. Thornton on the Horse violently whipping it for far too long, *i.e.*, excessively, and that he did not stop when he should have stopped. That the whipping was so loud that other horses got scared. Further, that Mr. Thornton had been angry, frustrated and was taking it out on the Horse. Finally, that the eye-witnesses were credible in the FEI's view. That even though some of them might have known each other, as the equestrian world was quite small, they were from a different age group, had different background and capacity in the equestrian world, and did not appear as a group of people who participated in a conspiracy. Furthermore, the Respondent did not ask questions to the witnesses with regard to the alleged conspiracy, nor did he provide any evidence in this regard. To the contrary, all eye witnesses confirmed during the hearing that they had been shocked by what they had seen and wanted to report it.

- 6.31 Furthermore, it is the FEI's mandate, according to its Statutes (Article 1.4) "*To preserve and protect the welfare of the Horse (...)*". That even if the Horse had survived, a case of horse abuse would still have been opened by the FEI. Dr. Tortereau stated that it was not possible to exclude the possibility that Mr. Thornton's action had led to the death of the Horse. The FEI argued in this respect that the absence of evidence did not mean it was not there.
- 6.32 Regarding standard of proof, the FEI considers that allegations must be proved on a "balance of probability" and not "beyond a reasonable doubt." For the FEI, the higher standard would be mandated only in situations where no direct evidence was available, which was not the case in this particular case. The FEI in any event was of the view that, under the facts of this case, it would nonetheless overcome the higher standard of proof.
- 6.33 The FEI argued that the Horse has been abused and Mr. Thornton was guilty of the offence of horse abuse. That "abuse" means an action or omission, causing "discomfort" to a horse, and that there was no doubt that the Horse experienced discomfort, and that it had been pushed beyond its capabilities. The Horse had been whipped excessively; as some witnesses confirmed, it had been whipped for a time at every stride. Mr. Thornton showed complete disregard for the welfare of the Horse. Finally, the FEI requested the Tribunal to impose an appropriate period of suspension on Mr. Thornton.

Submissions by the Respondent:

- 6.34 The Respondent argued that the Tribunal had to make a clear distinction between the death of the Horse and the alleged wrongdoing of Mr. Thornton, as the death of the Horse did not indicate abuse. In the Respondent's view, absence of proof may not be proof of absence; but absence of proof was certainly not meeting the burden of proof that the FEI had to meet in this case. The FEI had to fulfil the burden of proof that showed with a preponderance of the evidence that horse abuse occurred, and that it occurred with intention. In the case at hand there was however no conclusive evidence regarding the cause of death nor of horse abuse, and thus no basis for any sanction against Mr. Thornton. The Respondent also questioned why no photo or video proof existed, considering the number of witnesses and the duration of the alleged horse abuse.
- 6.35 The Respondent argued that the Horse had not been exhausted to death, nor was any pain caused to the Horse. That the exercise lasted a maximum of twenty (20) minutes in total, and that most witnesses of

the FEI only witnessed two (2) to three (3) minutes. That Mr. Thornton rode around the track once (the track was 2.1 km in length) and twice up and down the strait of the track. That based on the speed of outdoor shows there had been a maximum cantering time of eight (8) minutes. That this could not be considered as strenuous work. Further, that from experience horses always sweated, which was not the case here. Furthermore, that the Horse had been generally fit and, as confirmed by Mr. Hunter, while the Horse was normally fit, it did not behave normally. In this respect, Dr. X confirmed that there were no signs in advance of a sudden death, and that a weird behaviour of such a horse could easily last three (3), four (4) or five (5) minutes.

- 6.36 The Respondent further argued, that it was impossible that a horse would be abused by whipping if there were no marks of the whipping. In this respect, Dr. Cronau confirmed that if a horse was abused with a whip, it will necessarily show. The only person whose task was to witness the training was Mr. Hunter, and he witnessed that the Horse was hit only three (3) times. Furthermore, the witnesses stated that the Horse had been whipped on the buttocks, and not on the shoulder. Therefore, the Horse could not have shown any haemorrhages caused by a whip - as suggested by Dr. Tortereau on the shoulder.
- 6.37 Moreover, the three (3) witnesses who referred to Mr. Thornton's rage might have mistaken rage for the fear of a frisky horse. And it was not disputed that the horse was frisky and stood up.
- 6.38 Finally, Respondent argued that the witness statements contradicted each other regarding the "how and where" of the incident. The witnesses had been chosen by the FEI, and the pre-fabricated witness statements by the show organisers had influenced the witnesses. That findings of the veterinarians - on the other hand - were objective. That Mr. Åkerström had specifically requested Dr. Tortereau regarding any kind of abuse, and that Dr. Tortereau did however not confirm any abuse in his statement, and stated during the hearing of 2 May 2017 that he could not comment on the cause of the alleged haemorrhages.
- 6.39 In summary, since there were no physical marks and no ill intention, there was no horse abuse, and thus no room for sanctioning Mr. Thornton. Ultimately, this case was nothing else than the sudden death of a horse.

7. Jurisdiction

The Tribunal has jurisdiction over the matter pursuant to the Statutes, GRs and IRs.

8. Admissibility of the Claim

The Protest submitted to the Tribunal by the FEI Secretary General through the FEI Legal Department against Mr. Thornton arises from an alleged horse abuse since Mr. Thornton was registered with the FEI at the time of the incident. Any such Protest may be lodged by anybody, including by the FEI, under Article 163.2 of the GRs. The Protest is therefore admissible and the Tribunal will thus decide on the matter in accordance with applicable rules and regulations.

9. Decision

- 9.1 The Tribunal took note that the FEI requested the Tribunal to disregard the contents of the poster relating to the scientific study of Dr. X, as it was only submitted a few days before the oral hearing, and thus outside of the timeline specified in the IRs. As indicated in Paragraph 2.12 above, the Tribunal rejected that request at the hearing, since the substance of the scientific work of Dr. X was largely set out in Respondent's submission of 3 April 2017, and thus the FEI had ample time and opportunity to be prepared for cross-examining Dr. X, which the FEI actually did efficiently during the hearing.
- 9.2 The Tribunal also took note of the FEI's unsupported allegation of an ongoing police investigation in France, as well as Respondent's statement that he was not aware of any such investigation. The Tribunal wishes to clarify for the avoidance of any doubt that it is irrelevant to its decision whether such investigation is ongoing or not. The Tribunal has to decide whether there has been horse abuse solely in accordance with FEI rules and regulations, based on the facts established during the course of the proceedings and pertaining to the allegations of the FEI. The unsupported allegation of a police investigation is thus irrelevant to the Tribunal and this decision.
- 9.3 Regarding standard of proof, the FEI considers that the applicable standard is that of the "*balance of probabilities*," while the Respondent considers that it is that of a "*high degree of probability*" or the "*profound conviction*" of the panel, both being arguably higher standards than the

one advocated by the FEI. In support for his position, the Respondent relies on the case law of the Court of Arbitration for Sport,¹¹ to which reference was made in the decision of the FEI Tribunal in the Sundancer Case.¹²

- 9.4 The standard of proof applicable in proceedings before the FEI Tribunal, is set out in Article 19.24 of the IRs, which reads as follows:

"Unless otherwise stated in the relevant rules, the standard of proof on all questions to be determined by the Hearing Panel shall be by the balance of probabilities."

- 9.5 In the instant case no "*relevant rules*" have been invoked by the Parties that would mandate the application of a standard other than the balance of probabilities. Should the above-mentioned CAS decision be considered to constitute such "*relevant rule*" justifying the application of a standard other than the balance of probabilities, the next question for the Tribunal is to determine whether this jurisprudence is applicable and whether the "*high degree of probability*" or the "*profound conviction*" standard should apply under the specifics of this case.

- 9.6 The Tribunal does not consider that the conditions required to depart from the standard rule are met in the instant case. Indeed, in the CAS case referred to above there was no direct evidence of horse abuse, and the CAS Panel had to rely on circumstantial evidence. It was precisely such reliance on circumstantial evidence that justified the higher standard of proof. The CAS Panel held:

*"According to Swiss federal case law, in the event that direct evidence cannot or can no longer, be produced, the judge does not violate Article 8 CC (Swiss Civil Code) (rule concerning the burden of proof) by basing his finding on indications or on a high degree of probability (ATF 104 II 68 = JdT1979 I 738, p. 545). Furthermore, facts that must be presumed to have occurred in the natural course of events may be used as the basis for a judgment, even if they are not established by proof, unless the opposing party alleges or proves circumstances such as to cast doubt on their accuracy (ATF 100 II 352, p. 356)."*¹³

¹¹ CAS 96/159 & 96/166, A., C., F. and K. vs. FEI, Award of 27 March 1998, CAS Digest II, p. 447

¹² Alleged Case No. 01/2008

¹³ CAS 96/159 & 96/166, A., C., F. and K. vs. FEI, Award of 27 March 1998, CAS Digest II, Paragraph 16 at page 454.

9.7 The FEI Tribunal took the same position in the Sundancer Case, in which the Panel held:

*"Abuse cases may be proven through circumstantial evidence, since abuse is typically practiced away from the public eye. In the event that direct evidence cannot or can no longer be produced, a decision may be based on indications or on a high degree of probability. This was confirmed by the CAS in its decision CAS 96/159 & 96/166, A., C., F. and K. vs. FEI, Award of 27 March 1998, CAS Digest II 447, which confirmed the earlier decision of the FEI's Judicial Committee (the predecessor of the Tribunal)."*¹⁴

9.8 In the present case, no circumstantial evidence has been invoked by the Parties, the Respondent has not argued that the evidence relied upon by the FEI was circumstantial, and the Tribunal is not relying on any such evidence. Thus, the rationale that could justify deviating from the standard of proof set out in Article 19.24 of the IRs is missing. In any event, the Tribunal wishes to point out that based on the evidence on the record, the higher threshold would have been met. It is indeed with deep conviction that the Tribunal has reached its decision and it is the position of the Tribunal that the evidence does justify with a high degree of probability the outcome of this case. In other words, even if the higher standard had been applicable, this decision would have been the same.

9.9 The Tribunal also wishes to clarify that it was not requested and is not deciding on the potential responsibility of Mr. Thornton's for the tragic death of the Horse. The Tribunal has never been in a position to take a stand on this issue as the FEI in its Protest did not claim that to be the case, and no evidence has been adduced in this respect. Moreover, neither do the scientific reports (Autopsy and Histologic Reports) provide any conclusion on the cause of the death.

9.10 Furthermore, the Tribunal has taken note of the Respondent's explanation that the Horse died of so-called "sudden death." While the Tribunal cannot exclude this theory, the Tribunal also finds that the evidence submitted in this regard, mainly a description of horses' behaviour prior to sudden death cases, is not sufficient for the Tribunal to conclude that the Horse died of so-called "sudden death." More generally and in any event, issues related to the death of the Horse, as tragic and unfortunate as it may be, are outside the scope of this case and thus irrelevant to the decision of the Tribunal.

¹⁴ Alleged Case No. 01/2008, at Section 4.37

- 9.11 In addition, the Tribunal took note of the various expert discussions as to whether the red dots on the Photograph concerned haemorrhages caused by a trauma, which could have potentially been caused by a whip use, or whether the Photograph actually shows intersections of blood vessels. Since the Photograph concerns the shoulder area of the Horse but none of the witnesses, including Mr. Thornton, indicated that the Horse had been hit on the shoulder,¹⁵ the Tribunal does not find it relevant for the present decision to establish what the Photograph actually shows.
- 9.12 The Tribunal has also taken note of Dr. Cronau's position that each whip use would have left a welt on a horse's skin. However, Dr. Cronau qualified that statement upon further questioning by saying that this would depend on each individual horse and the strength applied when whipping. Dr. Tortereau, was asked whether he could imagine that a whip could cause what he identified as bleeding in the Photograph, despite the fact that there were no traces on the skin of the Horse. He answered that it was possible.
- 9.13 Dr. Cronau stated in his report that he had not seen welts on the skin of the Horse when he observed the autopsy. Dr. Tortereau for his part did not make any comment about the condition of the Horse's skin, neither in his Autopsy Report nor orally. Dr. Cronau also stated that he did not see any sign of sweating, such as "*incrusted areas, change of skin surface, etc.*"
- 9.14 Based on the expert opinions submitted to the Tribunal, the observation of welts on the skin of the Horse would most definitely establish that the Horse had been strongly whipped. But equally, the absence of welt would not establish that a horse had not been whipped. While Dr. Cronau stated that each whipping would leave a welt, he also acknowledged that he was not aware of any scientific study on horse whipping.¹⁶
- 9.15 Ultimately, the Tribunal has to reconcile Dr. Cronau's opinion about whipping and welts with the testimony of the various eye-witnesses who testified that they saw Mr. Thornton whip the Horse repeatedly. The Tribunal has not been convinced by Dr. Cronau's testimony as it relates to whipping and welts because Dr. Cronau should have then necessarily observed some welts from Mr. Thornton having whipped the Horse three (3) times, as also confirmed by Mr. Hunter. If the Tribunal were to accept Dr. Cronau's opinion that each time Mr. Thornton whipped the Horse a welt would have appeared, then Dr. Cronau should have observed at least

¹⁵ All witnesses, including Mr. Thornton, confirmed that the Horse had been hit on its buttocks.

¹⁶ The Tribunal understands that such study may not exist for many reasons, including its limited scientific value and the potentially controversial aspects of conducting such study on horses.

some welts on the buttocks of the Horse. Dr. Cronau however, testified that he did not see any welts.

- 9.16 Dr. Cronau may have been mistaken in his opinion regarding welts, which opinion Dr. Cronau indicated is not supported by scientific evidence. Alternatively, Dr. Cronau may not have been able to properly examine the Horse during the autopsy. In that respect, the Tribunal notes Dr. Cronau's statement that when he *"joined the pathologic team, the Horse already had been pulled up on one hindleg and partly eviscerated. A part of the skin, the guts, the internal organs including the heart have been placed aside. The head was cut off and placed on a nearby table."*¹⁷
- 9.17 Moreover, the conduct of the autopsy had been apparently delayed and Mr. Cronau observed that when the Horse was finally examined, *"unfortunately the autolysis had started and led to the consequence that five days after death only reduced objective findings could be realized and reported."*¹⁸ The less than optimum conditions under which the autopsy was conducted may have accounted for the fact that Dr. Cronau did not see welts while he should have (according to his own opinion as to when welts would appear) since there is no question that the Horse had been whipped at least three times by Mr. Thornton.
- 9.18 The Tribunal on the other hand has found the various eye-witnesses upon which the FEI is relying to be credible, and their fundamentally concurring testimonies, both written and oral, to be convincing as to what the witnesses saw on 10 October 2016 in Cagnes-sur-Mer. Based on the evidence adduced during the course of the proceedings, the Tribunal concludes that Mr. Thornton undoubtedly whipped the Horse repeatedly to force him to keep a full gallop on the race track. The Tribunal does not find credible the explanation given by Mr. Thornton that the Horse bolted and that he was struggling to regain control. While it is possible that the Horse did indeed bolt and rear up, for an experience rider, as Mr. Thornton is, to repeatedly whip a horse on its buttocks cannot be meant to regain control of a horse that bolted and went on an uncontrolled gallop. To the contrary, such whipping can only be meant to make the horse gallop faster.
- 9.19 The next question is to determine whether the conduct of Mr. Thornton constituted horse abuse under applicable FEI rules regulations. Article 142.1 of the GRs set out the principle that no person may abuse a horse during an event or at any other time. That same article define the word "abuse" to mean *"an action or omission which causes or is likely to cause*

¹⁷ Written Statement of Dr. Cronau dated 16 October 2016, p. 1 (Exhibit R16)

¹⁸ *Id.*, at p.4

pain or unnecessary discomfort to a Horse," and give a non-exhaustive illustrative list of what constitutes horse abuse, which includes to *"whip or beat a Horse excessively."* Since the use of a whip is not forbidden and to *"whip or beat a Horse excessively"* is an illustration of the general rule, it can be concluded that whipping, or beating, is therefore "excessive" when such action would *"cause pain or unnecessary discomfort to a Horse."*

- 9.20 It is therefore not necessary to a finding of horse abuse that the horse's skin would show welts or whipping marks. The relevant criteria is not that if a horse is whipped, the whipping had left whip marks, welts or broke the skin of the horse. The relevant criteria is that the rider's behaviour, which includes whipping, caused or likely caused pain or unnecessary discomfort to a horse. In the instant case, whipping the Horse repeatedly to force it to keep going at full gallop when it was, according to concurring eye-witness testimonies, reluctant to go, did cause or was likely to cause pain or unnecessary discomfort to the Horse.
- 9.21 Moreover, Article 243.2 (2) of the JRs, which addresses the issue of horse abuse within the specific context of the jumping discipline, provide - among others - that *"[t]he whip may not be used to vent an Athlete's temper. Such use is always excessive,"* and that *"A Horse should never be hit more than three times in a row. If a Horse's skin is broken, it is always considered excessive use of the whip."*
- 9.22 It is undisputed that Mr. Thornton did whip the Horse, although how many times and in which manner are disputed. According to Mr. Thornton, he used the whip only three (3) times; twice at the beginning and once thereafter, thus remaining within the "3-strike" rule of the JRs. Mr. Hunter confirmed having seen Mr. Thornton using the whip only three (3) times in total but also indicated that he was not able to see what had happened on the other end of the racetrack. On the other hand, according to the six (6) eye witnesses who observed the event along the racetrack, the whipping has been quasi-constant, violent and excessive. One of the eye-witnesses indicated that he saw Mr. Thornton whip the Horse at every stride, and all witnesses have said in essence that the whipping was forceful repeated and substantial. Even though the eye-witnesses did not keep count of how many times the Horse has been whipped, the Tribunal is in a position to conclude with confidence that the Horse has been whipped repeatedly, substantially and excessively; clearly more than the three (3) times alleged by Mr. Thornton.
- 9.23 Based on the substantially concurring eye-witness testimonies, the Tribunal concludes that the whipping and the overall treatment of the Horse by Mr. Thornton during that incident went way beyond what could

be considered an acceptable conduct toward a horse under FEI rules and regulations.

- 9.24 The Tribunal understands from the testimonies of Ms. Sinclair, Mr. Thornton and Mr. Hunter, that the Horse was "*sensitive*" and had a "*bit of a special character*." The Tribunal also understand that the Horse's performance and behaviour on the competition day prior to the incident was disappointing as the Horse "*did not want to go*" and "*was not going to go*." As a result, Mr. Thornton decided in agreement with Mr. Vinnie Duffy to change the training method, and the session at the racetrack was part of that change. The Tribunal also understands that Mr. Thornton was expecting some difficulties at the racetrack, hence asking Mr. Hunter to accompany him with a dressage whip.
- 9.25 Based on the evidence on the record, including the concurring testimonies of the eye-witnesses, the Tribunal also concludes that the whipping was administered with anger. Mr. Thornton was required to keep his emotions in check and the Tribunal considers that Mr. Thornton's violated the prohibition of using the whip to "*vent an Athlete's temper*."
- 9.26 Regarding the credibility of the six (6) eye witnesses, the Tribunal acknowledge that their testimonies are not identical, with each witness emphasizing different aspects of the same incident. However, they are not contradictory and they are furthermore coherent with each other, which is due to the fact that the incident was observed by the witnesses from different positions and vantage points along the racetrack. The Tribunal therefore does not find that these testimonies, written and oral, should be disregarded.
- 9.27 The Tribunal thus concludes that under the definition of horse abuse in the GRs and the JRs, the FEI discharged its burden of proof to establish horse abuse under the applicable FEI Rules and Regulations, namely Article 142.1 of the GRs in connection with Article 243.2.2 of the JRs.
- 9.28 The Tribunal wishes to conclude by addressing certain comments made at the end of the hearing by Mr. Thornton, to the effect that, according to the Respondent, the FEI has been pursuing this case against him as part of an alleged conspiracy orchestrated by a person with whom Mr. Thornton currently has, or had in the past, certain disagreements.
- 9.29 The Respondent however, aside from making such oral allegations, did not provide any evidence in support thereof. The Tribunal has thus no other choice but to disregard his narrative. The Tribunal wishes nonetheless to point out that it would be extremely unlikely for all eye-witnesses, including the six (6) that provided oral testimony at the

hearing, to have been part of such conspiracy. As indicated above, these eye-witnesses who provided written and oral testimonies were credible, their evidence was substantially concordant and not in contradiction with each other. All witnesses were horseman and horsewomen from different walks of life, and of different age and background. No evidence was submitted that these witnesses would have testified to facts they knew to have been false, potentially subjecting themselves to the moral and legal consequences of providing a false testimony.

9.30 As a result of the foregoing, the Tribunal finds that Mr. Thornton did abuse the Horse within the meaning of Article 142.1 of the GRs. For the above reasons, and in accordance with Articles 142.1 and 169.6.2 of the GRs, the Tribunal therefore decides as follows:

1. The Protest is admissible.
2. Mr. Thornton shall be suspended for a period of **four (4) months** starting from the date of the present decision.
3. Mr. Thornton shall be fined **five thousand Swiss Francs (CHF 5'000)**.
4. Mr. Thornton shall contribute **five thousand Swiss Francs (CHF 5'000)** towards the cost of these proceedings.

9.31 According to Article 168 of the GRs this Decision is effective from the date of its oral or written notification to the affected party or parties.

9.32 According to Articles 165.1.3 and 165.6.1 of the GRs, this Decision can be appealed before the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

V. DECISION TO BE FORWARDED TO:

The Parties: Yes

Any other: NF

FOR THE PANEL



The Chair, Mr. Laurent Niddam