

**UCI Anti-Doping Tribunal**

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**Judgment**

**case ADT 01.2023**

**UCI v. Mr Juan Manuel Godoy**

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**Single Judge:**

**Mr. Julien Zylberstein (France)**

**Aigle, 20<sup>th</sup> December 2023**

## **I. INTRODUCTION**

1. The present Judgment is issued by the UCI Anti-Doping Tribunal (the “Tribunal”) in application of the UCI Anti-Doping Procedural Rules (the “ADT Rules”) in order to decide upon violations of the UCI Anti-Doping Rules (the “UCI ADR”) committed by Mr. Juan Manuel Godoy (the “Rider”), as alleged by the UCI (the “UCI” and, together with the Rider, the “Parties”).

## **II. FACTUAL BACKGROUND**

2. The circumstances stated below are a summary of the main relevant facts, as submitted by the Parties. Additional facts may be set out, where relevant, in connection with the legal discussion which follows. While the Single Judge has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Judgment refers only to the necessary submissions and evidence to explain his reasoning.

### **A. The UCI**

3. The UCI is the association of national cycling federations and a non-governmental international association with a non-profit-making purpose of international interest, with a legal personality in accordance with Articles 60 et seq. Swiss Civil Code and according to Articles 1(1) and 1(2) of the UCI Constitution.

### **B. The Rider**

4. The Rider is a track cycling rider of Argentinian nationality. At the time of the alleged anti-doping rule violation (the “ADRV”), the Rider was affiliated to the Unión Ciclista de la República Argentina (the “UCRA”). He was, thus, a licence holder within the meaning of the UCI ADR. The Rider represented Argentina as a track cyclist at the 2021 Junior Pan American Games (the “Games”) which were held in Cali (Colombia) between 25 November and 5 December 2021.

### **C. The alleged anti-doping violation**

5. On 24 November 2021, the Rider provided a urine sample as part of an out-of-competition anti-doping control (but during the Event period of the Games<sup>1</sup>, sample number 4606226 – the “Sample”) carried out by the Pan American Sports Organisation (the “PASO”), the ruling body of the Games. On the Doping Control Form (the “DFC”), the Rider confirmed that the Sample had been taken in accordance with the applicable procedures and signed the DCF.
6. The analysis of the Sample was conducted by the World Anti-Doping Agency (the “WADA”) accredited Laboratory of Salt-Lake City, Utah, United States (the “Salt Lake City Laboratory”). The latter acknowledged receipt of the Sample on 29 November 2021.
7. On 26 November 2021, the Rider competed in the Team Sprint event at the Games.
8. On 16 December 2021, the Salt Lake City Laboratory reported the Rider’s A-Sample as an Adverse Analytical Finding (the “AAF”) for Stanozolol and its metabolites 16b-

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<sup>1</sup> According to the PASO Anti-Doping Rules the *Event Period* is: *The period commencing on the date of the opening of the Athletes Village of the Event, up until and including the day of the closing ceremony of the Event.*

Hydroxystanozolol, 4b-Hydroxystanozolol, 3'-Hydroxystanozolol (the "Stanozolol"). Stanozolol is listed under Section S1.1 (Anabolic Androgenic Steroids) of the 2021, 2022 and 2023 versions of the WADA Prohibited List (the "Prohibited List"). It is prohibited In- and Out-of-Competition. Article 4.1 UCI ADR incorporates the Prohibited list.

**D. Notification of the AAF and the explanation provided by the Rider**

9. On 17 December 2021, the PASO:
  - (a) Notified the Rider of the AAF and informed him that it constituted a potential violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in a Rider's Sample) and/or Article 2.2 (Use or Attempted Use by a Rider of a Prohibited Substance or a Prohibited Method) of the PASO Anti-Doping Rules (PASO ADR), equivalent to Articles 2.1 and 2.2 of the UCI ADR;
  - (b) As Stanozolol is not considered as a Specified Substance as per the Prohibited List, the PASO also imposed a mandatory Provisional Suspension on the Rider in accordance with Article 7.3 of the PASO ADR; and
  - (c) Requested the Rider to communicate his preferences regarding the B-Sample opening and analysis as well as the A-Sample Laboratory Documentation Package (LDP). Furthermore, the PASO informed the Rider of the possibility to request a hearing. Finally, the PASO invited the Rider to provide his explanations regarding the presence of Stanozolol and its metabolites in his Sample.
10. On 28 December 2021, the Rider informed the PASO that he waived his right to have the B-Sample opened and analysed and to receive the A-Sample LDP. The Rider also admitted the anti-doping rule violation (ADRV) but stated that he did not take any Prohibited Substance intentionally and added that he would analyse the supplements he used prior to the doping control, and which were authorised by the Argentinian staff.
11. On 30 December 2021, the PASO asserted that the Rider committed an ADRV in relation to his AAF for Stanozolol and its metabolites, specifically as a violation of Articles 2.1 and/or 2.2 of the PASO ADR. In the same communication, the PASO reminded the Rider of his right to request a hearing and informed the Rider that his International Federation (i.e. the UCI) would be in charge of imposing the relevant consequences beyond the Games.
12. On 17 January 2022, the Rider requested a hearing before the PASO Disciplinary Commission (PASO DC), following PASO's communications of 17 and 30 December 2021.
13. On 15 February 2022, the rider was present at the hearing held before the PASO DC.
14. On 23 February 2022, the PASO DC rendered its decision and found the Rider guilty of an ADRV. The Rider was also disqualified from all the competitions he took part during the Games with all related consequences, including withdrawal of the medal obtained on 26 November 2021 with the Argentinian Team. Finally, the Rider was informed of his right to appeal the PASO DC's decision in accordance with Articles 12.2 to 12.6 of the PASO ADR.
15. On 25 February 2022, the UCI received a copy of the decision issued by the PASO DC. In addition, the UCI received an English summary of said decision on 3 March 2022.
16. On 9 March 2022, upon the UCI's request, the PASO provided the complete case file to the UCI.

17. On 28 March 2022, the PASO confirmed, following the UCI's request dated 4 March 2022, that no party appealed the decision of the PASO DC and it was hence final and binding.
18. On 4 April 2022, the UCI notified the Rider to:
  - (a) Inform him that the UCI was now in charge of the Results Management of the case for the AAF in relation to consequences beyond the Games;
  - (b) Give him an opportunity to submit explanations and supporting documents as to how Prohibited Substance entered his body and/or provide substantial assistance within the meaning of Article 10.7.1.1 of the UCI ADR;
  - (c) Invite him to provide complete information on the medication, supplements or products he used in the 15 days preceding the sample collection; and
  - (d) Confirm that he was still provisionally suspended.
19. On 21 April 2022, the UCI extended the deadline to provide the requested information to 28 April 2022 as a result of the fact that the Rider had failed to answer the UCI's communication of 4 April 2022.
20. On 27 April 2022, the UCI was informed by the Rider of his new email address. The UCI thus sent him again all relevant documents and granted him a new deadline until 5 May 2022 to provide the requested information, in particular his explanations for the AAF.
21. On 1 May 2022, the Rider submitted his "preliminary" explanations, according to which he alleged that he had taken supplements contaminated by members of the Argentinian Team and had therefore sent them to a laboratory for analysis. The Rider also informed the UCI of his wish to open and analyse his B-Sample.
22. On 10 May 2022, the UCI requested clarifications regarding the use of supplements declared by the Rider and the alleged ongoing analyses of his supplements. The Rider was also reminded of the possibility to provide substantial assistance. At this occasion, the UCI clarified the fact that PASO's decision was final and binding. Therefore, the UCI was not allowed to review it, in particular when it comes to the ADRV and reiterated that at this stage, the only issue at stake was the sanctions and consequences to apply beyond the Games. His request to have the B-Sample analysed was thus rejected.
23. On 17 May 2022, the Rider informed the UCI of:
  - (a) The name of the supplements consumed, their format, the date of consumption, and the posology followed. He also provided pictures of the relevant supplements;
  - (b) The fact that the first laboratory to which he sent his supplements for analysis was not able to conduct the relevant analyses;
  - (c) The supplements were sent to another laboratory; and
  - (d) His disagreement with the UCI proceedings.
24. On 20 May 2022, the UCI clarified again the process provided under Articles 7.1.2.2 of the UCI ADR and 7.1.1 of the PASO ADR to the Rider. The UCI also requested the Rider to provide clarifications regarding the use of the supplements declared, the alleged ongoing analyses and the name of the Team staff who would be responsible for his ADRV.

25. On 31 May 2022, the newly appointed Lawyer of the Rider requested that the proceedings against his client shall be declared null and void as a result of alleged violations of his right to a fair trial before the PASO. He stressed out that his client had never been informed of the fact that he could be assisted in the context of the current and past proceedings and stated that he would have certainly not waived his B-Sample opening and analysis if he would have known that consequences beyond the Games would apply.
26. On 17 June 2022, the UCI clarified that on 23 February 2022, the Rider was duly informed by the PASO that the UCI would be in charge of the Results Management and of the determination of the consequences beyond those already imposed on 23 February 2022. It was also reminded that the Rider was given an opportunity to request a hearing in front of the PASO in accordance with Article 8.1 of the World Anti-Doping Code and was in fact heard by the PASO DC on 15 February 2022. At the same occasion, the UCI also noted that the PASO had issued a reasoned decision on 23 February 2022, which found the Rider guilty of an ADRV. Finally, the Rider was provided with a renewed opportunity to supplement his explanation for the presence of the Prohibited Substance in Sample and in particular with respect to the alleged contaminated supplements.
27. On 24 June 2022, the Rider said that he would have no other choice than to quit cycling if he was sanctioned and that it was the first time, that he was tested positive to a Prohibited Substance. For these reasons, the Rider requested the imposition of a light sanction.
28. On 8 July 2022, the UCI granted the Rider a final opportunity to clarify and supplement his explanations, in particular with regard to his use of supplements and the alleged ongoing analyses of his supplements.
29. On 19 July 2022, following the Rider's request of the same date, the UCI extended the deadline to provide his final explanation until 26 July 2022.
30. On 26 July 2022, the Rider's submitted his final explanation in which he claimed in particular that:
  - (a) He has a clean Anti-Doping history;
  - (b) The Argentinian Team staff, who were allegedly involved in other athletes' positive tests, manipulated his supplements;
  - (c) The analyses of his supplements returned negative because the relevant technology was not available at the laboratory; and
  - (d) In view of all the circumstances, he considered that the UCI should lift his provisional suspension to allow him to train and compete, at least locally.

**E. he Rider's refusal of the UCI's proposed acceptance of consequences**

31. On 5 August 2022, the UCI considered that the Rider's explanation on the source of the prohibited substance could not be ascertained and proposed him an Acceptance of Consequences pursuant to Article 8.2 of the UCI ADR. The Rider was also advised that he was not obliged to accept the proposed Acceptance of Consequences, however, that if he did not, the UCI would start disciplinary proceedings before the Tribunal in accordance with the UCI ADR.
32. On 15 August 2022, the UCI reminded the Rider of the expiration date of the Acceptance of Consequences on 25 August 2022 and stressed that it would not be extended further.

33. On 19 August 2022, the Rider noted that the UCI had failed to rule on his request for nullity and that a request for “annulment” had been filed within the PASO. He further stated that he was considering an appeal at the Court of Arbitration for Sport (CAS) and thus requested the UCI to suspend the proceedings until his request before the PASO would be adjudicated.
34. On 22 August 2022, the Rider filed his request for nullity before the PASO DC and forwarded it to the UCI on 23 August 2022.
35. On 24 August 2022, the UCI suspended the Rider’s deadline to consent to or refuse the Acceptance of Consequences.
36. On 14 September 2022, the Rider informed the UCI that he had not heard back from the PASO and therefore asked the UCI to contact the PASO in this respect.
37. On 16 September 2022, PASO informed the Rider that the PASO DC’s decision of 23 February 2022 was final and binding, and that it would not reopen the case because the Rider’s requests were belated.
38. On 21 September 2022, in view of the content of the PASO’s communication of 16 September 2022, the UCI granted to the Rider a final deadline of 3 days to agree with the proposed Acceptance of Consequences.
39. On 22 September 2022, the Rider alleged that his deadline to appeal the PASO DC’s decision to the CAS had not yet expired.
40. On 23 September 2022, the UCI reminded the Rider that the PASO DC’s decision of 23 February 2022 was final and binding. The UCI also informed the Rider that his deadline to communicate his intention with respect to the Acceptance of Consequences resumed until 26 September 2022. On the same day, the Rider contested the UCI’s decision to resume the aforementioned deadline, as he considered that his case should be declared null and void because he was deprived of his basic rights of defence. He therefore asked the UCI to suspend any type of ongoing procedure given his intention to initiate proceedings before the CAS.
41. On 18 October 2022, the UCI asked the Rider to clarify whether he filed an appeal to the CAS or not.
42. On 21 October 2022, the Rider reiterated that the procedure should be declared null and void due to the violation of his rights of defence and more generally of human rights. Regarding his potential appeal to the CAS, the Rider noted that he did not have the financial resources to pay the CAS fee of 1’000.- CHF. He therefore claimed that the CAS also violated the Rider’s basic rights of defence. He further stated that his deadline to appeal the CAS’ refusal to hear his case would expire on 25 November 2022. In this respect, the Rider also noted that he filed a claim before the United Nations regarding the alleged multiple abuses from the PASO, the UCI and the CAS. The Rider therefore again requested the UCI to suspend the proceedings until the relevant authorities ruled on his request for nullity.
43. In view of all the above, the UCI considered that the Rider refused the Acceptance of Consequences. Consequently, on 10 January 2023, the UCI referred the Rider’s case to the Tribunal for a determination of the sanction and consequences to be applied for his alleged ADRV.

### III. PROCEDURE BEFORE THE TRIBUNAL

44. In compliance with Article 13.1 of the ADT Rules, the UCI initiated proceedings before the Tribunal through the filing of a Petition to the Secretariat of the Tribunal on 10 January 2023.
45. In its Petition, the UCI requested the following relief:
- *Imposing on Mr. Godoy a Period of Ineligibility of 4 years, commencing on the date of the Tribunal's decision.*
  - *Holding that the period of provisional suspension served by Mr. Godoy since 17 December 2021 shall be deducted from the Period of Ineligibility imposed by the Tribunal.*
  - *Condemning Mr. Godoy to pay the costs of the Results Management by the UCI (CHF 2'500).*
46. Before referring the case to the Tribunal, the UCI offered the Rider an Acceptance of Consequences within the meaning of Article 8.2 of the UCI ADR and Article 2 of the ADT Rules.
47. On 2 February 2023, the President of the Tribunal appointed Mr. Julien Zylberstein to act as Single Judge in the present proceedings in application of Articles 14.1 and 14.2 of the ADT Rules.
48. On the same day, in application of Article 14.4 ADT Rules, the Tribunal informed the Rider that:
- (a) Disciplinary proceedings had been initiated against him before the Tribunal;
  - (b) Mr. Julien Zylberstein had been appointed as Single Judge of the Tribunal;
  - (c) Any challenge to the appointment of the Single Judge and any objection to the jurisdiction of the Tribunal should be brought to the Secretariat within 7 days of the receipt of the correspondence; and
  - (d) He was granted a deadline of 24 February 2023 to submit his answer in accordance with Articles 16.1 and 18 of the ADT Rules.
49. On 23 February 2023, the Rider:
- (a) Requested the Tribunal to declare absolute nullity of the procedure carried out before the PASO DC, in light of:
    - i. Alleged breaches of his right of defence, since:
      - He was not informed of his right to have legal technical assistance for his defence;
      - He was not offered a lawyer or technical legal assistance by the PASO DC;
      - He was only informed of the removal of awards as a consequence for the AAF but was not made aware of an eventual suspension;

- The UCRA did not intervene in his defence despite of the fact that it was obliged to do so; and
- He could not control the impartiality of the PASO DC's judges who heard his case.

ii. Alleged irregularities in the collection of the Sample;

(b) Requested the Tribunal to abstain of applying any sanction, in light of the alleged irregularities in the proceedings before the PASO DC;

(c) Requested the Tribunal to lift any provisional suspension imposed;

(d) Claimed that the proceedings before the Tribunal constituted a violation of the principle of *ne bis in idem*, since the PASO DC had already sanctioned him for the same facts and imposed the removal of the prizes obtained at the Games as a sanction. In this regard, the Rider claimed that a decision on his suspension could have been taken directly by the PASO DC, and this new process before the Tribunal, even if the Anti-Doping regulations allow it, constitutes a violation of his human rights; and

(e) Requested the production of the recording of the hearing before the PASO DC.

50. On 15 March 2023, the Tribunal informed the Parties that:

(a) The Rider's request for production of the recording of the hearing before the PASO DC was rejected as it did not meet the requirement of Article 19, paragraph 6, of the ADT Rules;

(b) The Single Judge considered that a second round of submissions was not necessary; and

(c) The Single Judge was of the opinion that a decision could be issued based on the documentation on the file (i.e. without a hearing), and invite the Parties to submit any observations they may have by 22 March 2023.

51. On 22 March 2023, the UCI submitted that, in its opinion, a hearing was not necessary and that the decision could be issued on the basis of the documentation on file.

52. On the same date, the Rider submitted to the Tribunal a submission, by means of which he:

(a) Claimed that the hearing recording was held by the PASO DC, which depends hierarchically on the Tribunal, and criticized the Tribunal's decision to reject the production of such recording.

(b) Challenged the appointment of the Single Judge, on grounds of "*manifest partiality, ignorance of the facts, confesses that he is going to issue a sentence without having background information on the case, confuses PROOF WITH CERTIFICATES, that the rights and petitions are not fully issued described and petitioned by this part*".

53. On 27 July 2023, the Tribunal:

(a) Clarified the basis on which the Tribunal rejected the Defendant's request for production of a document (Article 19 para. 6 letter b. of the ADT Rules) that such refusal, which was assessed on the basis of the ADT Rules (cf. Article 19, paragraph 6,



letter b), was not related to the merits of the case, which would be decided upon by the Single Judge once the hearing phase had been completed; and

- (b) Confirmed that the challenge of the Single Judge would be referred to the other members of the Tribunal, in accordance with the procedure set out in Article 15 paragraph 4 of the ADT Rules.

54. On 25 October 2023, the ADT Secretariat informed the Parties that:

- (a) The application to challenge the Single Judge had been rejected by the other members of the Tribunal; and
- (b) The Single Judge had determined that a hearing was not necessary in these proceedings and a decision would therefore be issued based on the Parties written submissions and exhibits.

#### **IV. JURISDICTION OF THE TRIBUNAL**

55. The jurisdiction of the Tribunal follows from Articles 8.3.2 of the UCI ADR and Article 3.1 of the ADT Rules, according to which *“the Tribunal shall have jurisdiction over all matters in which an anti-doping rule violation is asserted by the UCI based on a Results Management or investigation process under Article 7 ADR.”*

56. Furthermore, Article 3.2 of the ADT Rules provides the following:

*“Any objection to the jurisdiction of the Tribunal shall be brought to the Tribunal’s attention within 7 days upon notification of the initiation of the proceedings. If no objection is filed within this time limit, the Parties are deemed to have accepted the Tribunal’s jurisdiction.”*

57. Neither party raised any objection to the jurisdiction of the Tribunal within said time limit, thus the Single Judge confirms the jurisdiction of the Tribunal. Additionally, the Defendant’s objection to the appointment of the Single Judge has been rejected by the other members of the Tribunal on 25 October 2023. The Single Judge appointment is hence confirmed.

58. For the sake of completeness, the Tribunal notes that its jurisdiction is in any case consistent with the applicable provisions of the UCI ADR:

59. Part C of the Introduction of the UCI ADR addresses its scope of application, as follows:

*“These Anti-Doping Rules shall apply to the UCI and to each of its National Federations. They shall also apply to the following Riders, Rider Support Personnel and other Persons:  
a) any License-Holder, (...)”*

60. The Rider was affiliated to the UCRA and held a UCI license at the time of the AAF and is thus a License-Holder within the meaning of the UCI ADR<sup>2</sup> and bound by the UCI ADR.

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<sup>2</sup> According to the definitions of the Appendix 1 of the UCI ADR, a Licence-Holder is “[a] Person who is holder of a licence or who has applied for a licence under the UCI Cycling Regulations. For the avoidance of doubt, a Licence-Holder continues to be considered as such for the purpose of the present Anti-Doping Rules for all obligations that arose and for any violation that was committed and for all implications and consequences of any fact that occurred while holding a licence as well as for all obligations that continue to exist during any period of Ineligibility including when the Person concerned actually no longer holds a licence at the time of such obligation, violation or fact”.

61. In view of all the above, the Single Judge concludes that the Tribunal has jurisdiction to decide on the Petition.

## V. APPLICABLE RULES AND REGULATIONS

62. According to article 26 of the ADT Rules, “[i]n rendering his judgment, the Single Judge shall apply the [UCI] ADR and the standards referenced therein as well as the UCI Constitution, the UCI Regulations and, subsidiarily, Swiss law”. The alleged ADRV took place on 24 November 2021 (the relevant point of time being that of Sample collection). The 2021 edition of the UCI ADR is thus applicable to the current matter<sup>3</sup> (Article 27.1 of the UCI ADR).

63. This is further supported by the UCI ADR, the WADA Code and the PASO Regulations themselves, which all provide in Article 7 that results management and the conduct of hearings for a test conducted by a Major Event Organisation (i.e. the PASO) shall be referred to the applicable International Federation in relation to Consequences beyond exclusion from the event (Article 7.1.2.2 of the UCI ADR, Article 7.1.4 of the WADA Code and Article 7.1.1 of the PASO Anti-Doping Rules).

64. Specifically, Article 7.1.2 of the UCI ADR reads as follows:

*“7.1.2 Default Responsibility of the UCI as an International Federation*

*7.1.2.2 In the event a Major Event Organization assumes only limited Results Management responsibility relating to a Sample initiated and taken during an Event conducted by a Major Event Organization, or an antidoping rule violation occurring during such Event, the case shall be referred by the Major Event Organization to the UCI for completion of Results Management.*

*[Comment to Article 7.1.2.2: The Major Event Organization for that Event shall assume Results Management responsibility to at least the limited extent of conducting a hearing to determine whether an anti-doping rule violation was committed and, if so, the applicable Disqualifications under Articles 9 and 10.1, any forfeiture of any medals, points, or prizes from that Event, and any recovery of costs applicable to the anti-doping rule violation.]”*

65. In the present case, the PASO - a Major Event Organisation within the meaning of the UCI ADR<sup>4</sup> and the PASO Anti-Doping Rules<sup>5</sup>, collected a sample on 24 November 2021 during the

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<sup>3</sup> Pursuant to article 27.1 of the 2021 UCI ADR, such rules “shall apply in full as of 1 January 2021”.

<sup>4</sup> According to the Definitions of Appendix 1 of the UCI ADR, Major Event Organizations are “[t]he continental associations of National Olympic Committees and other international multi-sport organizations that function as the ruling body for any continental, regional or other International Event”.

<sup>5</sup> The introduction of the PASO Anti-Doping Rules provides (in Spanish) that: “These Anti-Doping Rules shall apply to all Events over which Panam Sports has the authority to conduct Testing as a Major Event Organisation, including, but not limited to, the Cali 2021 Junior Pan American Games (hereinafter referred in occasions as “Cali 2021”) and the Pan American Games of Santiago 2023 (hereinafter referred in occasions as “Santiago 2023”)”.

Original text in Spanish:

*“Las presentes Normas Antidopaje aplicarán a todos los eventos sobre los que Panam Sports tenga autoridad para realizar Controles como Organización Responsable de Grandes Eventos, incluyendo, de manera enunciativa mas no limitativa, los Juegos Panamericanos Junior Cali 2021 (de aquí en adelante referidos en ocasiones como “Cali 2021”) y los Juegos Panamericanos Santiago 2023 (de aquí en adelante referidos en ocasiones como “Santiago 2023”)”.*

Games in Cali. As provided under PASO Rules, PASO is competent to determine whether an ADRV occurred and the consequences in relation to the Games. Then, PASO refer cases to the relevant International Federation to complete the Results Management for consequences beyond the Games.

66. As per the burden and standard of proofs, Article 3 of the UCI ADR reads as follows:

**3.1 Burdens and Standards of Proof**

*The UCI shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the UCI has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Rider or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability.*

*[Comment to Article 3.1: This standard of proof required to be met by the UCI is comparable to the standard which is applied in most countries to cases involving professional misconduct.]*

**3.2 Methods of Establishing Facts and Presumptions**

*Facts related to anti-doping rule violations may be established by any reliable means, including admissions.*

*[Comment to Article 3.2: For example, the UCI may establish an anti-doping rule violation under Article 2.2 based on the Rider's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Rider's blood or urine Samples, such as data from the Athlete Biological Passport.]*

*The following rules of proof shall be applicable in doping cases:*

**3.2.1 Analytical methods or Decision Limits approved by WADA after consultation within the relevant scientific community or which have been the subject of peer review are presumed to be scientifically valid. Any Rider or other Person seeking to challenge whether the conditions for such presumption have been met or to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. The initial hearing body, appellate body or CAS, on its own initiative, may also inform WADA of any such challenge. Within ten (10) days of WADA's receipt of such notice and the case file related to such challenge, WADA shall also have the right to intervene as a party, appear as amicus curiae or otherwise provide evidence in such proceeding. In cases before CAS, at WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge.**

*[Comment to Article 3.2.1: For certain Prohibited Substances, WADA may instruct WADA-accredited laboratories not to report Samples as an Adverse*

*Analytical Finding if the estimated concentration of the Prohibited Substance or its Metabolites or Markers is below a Minimum Reporting Level. WADA's decision in determining that Minimum Reporting Level or in determining which Prohibited Substances should be subject to Minimum Reporting Levels shall not be subject to challenge. Further, the laboratory's estimated concentration of such Prohibited Substance in a Sample may only be an estimate. In no event shall the possibility that the exact concentration of the Prohibited Substance in the Sample may be below the Minimum Reporting Level constitute a defense to an anti-doping rule violation based on the presence of that Prohibited Substance in the Sample.]*

3.2.2 *WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Rider or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.*

3.2.3 *If the Rider or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.*

*[Comment to Article 3.2.3: The burden is on the Rider or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. Thus, once the Rider or other Person establishes the departure by a balance of probability, the Rider or other Person's burden on causation is the somewhat lower standard of proof – "could reasonably have caused." If the Rider or other Person satisfies these standards, the burden shifts to the UCI to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

3.2.4 *Departures from any other rules set forth in these Anti-Doping Rules, UCI Regulations, any International Standard or other anti-doping rule or policy set forth in the Code shall not invalidate analytical results or other evidence of an anti-doping rule violation, and shall not constitute a defense to an anti-doping rule violation; provided, however, if the Rider or other Person establishes that a departure from one of the specific UCI Regulations or International Standard provisions listed below could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding, an Adverse Passport Finding or whereabouts failure, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the whereabouts failure:*

*(i) a departure from the UCI Testing & Investigation Regulations or International Standard for Testing and Investigations related to Sample collection or Sample handling which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding or an*

*Adverse Passport Finding, in which case the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding;*

*(ii) a departure from the UCI Results Management Regulations, UCI Testing & Investigations Regulations, International Standard for Results Management or International Standard for Testing and Investigations related to an Adverse Passport Finding which could reasonably have caused an anti-doping rule violation, in which case the UCI shall have the burden to establish that such departure did not cause the anti-doping rule violation;*

*(iii) a departure from the UCI Results Management Regulations or International Standard for Results Management related to the requirement to provide notice to the Rider of the B Sample opening which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding, in which case the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding;*

*[Comment to Article 3.2.4 (iii): The UCI would meet its burden to establish that such departure did not cause the Adverse Analytical Finding by showing that, for example, the B Sample opening and analysis were observed by an independent witness and no irregularities were observed.]*

*(iv) a departure from the UCI Results Management Regulations or International Standard for Results Management related to Rider notification which could reasonably have caused an anti-doping rule violation based on a whereabouts failure, in which case the UCI shall have the burden to establish that such departure did not cause the whereabouts failure.*

*[Comment to Article 3.2.4: Departures from an International Standard or other rule unrelated to Sample collection or handling, Adverse Passport Finding, or Rider notification relating to whereabouts failure or B Sample opening – e.g., the International Standards for Education, Data Privacy or TUEs – may result in compliance proceedings by WADA but are not a defense in an anti-doping rule violation proceeding and are not relevant on the issue of whether the Rider committed an anti-doping rule violation. Similarly, the UCI’s violation of the document referenced in Article 20.7.7 of the Code shall not constitute a defense to an anti-doping rule violation.]*

*3.2.5 The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the Rider or other Person to whom the decision pertained of those facts unless the Rider or other Person establishes that the decision violated principles of natural justice.*

*3.2.6 The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the Rider or other Person who is asserted to have committed an anti-doping rule violation based on the Rider’s or other Person’s refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as*

*directed by the hearing panel) and to answer questions from the hearing panel or the UCI.*

67. As for the standard period of Ineligibility, Article 10.2 of the UCI ADR provides as follows:

*The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.54, 10.6 or 10.7:*

*10.2.1 The period of Ineligibility shall be four years where:*

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

*[Comment to Article 10.2.1.1: While it is theoretically possible for a Rider or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 a Rider will be successful in proving that the Rider acted unintentionally without establishing the source of the Prohibited Substance.]*

*10.2.1.1.2 The anti-doping rule violation involves a Specified Substance, or a Specified Method and the UCI can establish that the anti-doping rule violation was intentional.*

*10.2.2 If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of Ineligibility shall be two years.*

*10.2.3 As used in Article 10.2, the term 'intentional' is meant to identify those Riders or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Rider can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Rider can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.*

*[Comment to Article 10.2.3: Article 10.2.3 provides a special definition of "intentional" which is to be applied solely for purposes of Article 10.2.]*

68. As for the possibilities to eliminate or reduce the aforementioned periods of Ineligibility based on fault, the UCI ADR states as follows:

*10.5 Elimination of the Period of Ineligibility where there is No Fault or Negligence*

*If a Rider or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.*

(...)

## 10.6 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence

### 10.6.1 Reduction of Sanctions in Particular Circumstances for Violations of Article 2.1, 2.2 or 2.6.

*All reductions under Article 10.6.1 are mutually exclusive and not cumulative.*

(...)

10.6.1.2 *Contaminated Products In cases where the Rider or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Rider or other Person's degree of Fault.*

(...)

### 10.6.1.3 Protected Person or Recreational Rider

*Where the anti-doping rule violation not involving a Substance of Abuse is committed by a Protected Person or Recreational Rider, and the Protected Person or Recreational Rider can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Protected Person or Recreational Rider's degree of Fault.*

### 10.6.2 Application of No Significant Fault or Negligence beyond the Application of Article 10.6.1

*If a Rider or other Person establishes in an individual case where Article 10.6.1 is not applicable that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in Article 10.7, the otherwise applicable period of Ineligibility may be reduced based on the Rider or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight (8) years.*

(...)

69. In relation to the commencement of the period of Ineligibility, Article 10.13 of the UCI ADR provides as follows:

*(...) except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed.*

(...)

*10.13.2.1 If a Provisional Suspension is respected by the Rider or other Person, then the Rider or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If the Rider or other Person does not respect a Provisional Suspension, then the Rider or other Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Rider or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal.*

*(...)*

70. As for the financial Consequences of the alleged anti-doping rule violation, Article 10.12.1 of the UCI ADR directs the following:

*In addition to the Consequences provided for in Article 10.1-10.10, violation under these Anti-Doping Rules shall be sanctioned with a fine as follows.*

*10.12.1.1 A fine shall be imposed in case a Rider or other Person exercising a professional activity in cycling is found to have committed an intentional anti-doping rule violation within the meaning of Article 10.2.3.*

*(...)*

*10.12.1.2 The amount of the fine shall be equal to the net annual income from cycling that the Rider or other Person was entitled to for the whole year in which the anti-doping violation occurred. (...)*

71. As for the liability for costs of the procedures, Article 10.10.2 ADR provides as follows:

*If the Rider or other Person is found to have committed an anti-doping rule violation, he or she shall bear, unless the UCI Anti-Doping Tribunal determines otherwise:*

- 1. The cost of the proceedings as determined by the UCI Anti-Doping Tribunal, if any.*
- 2. The cost of the Results Management by the UCI; the amount of this cost shall be CHF 2'500, unless a higher amount is claimed by the UCI and determined by the UCI Anti-Doping Tribunal.*

*(...)*

In addition, Article 29 of the ADT Rules provides as follows:

- 1. The Tribunal shall determine in its judgment the costs of the proceedings as provided under Article 10.12.2 para. 1 ADR.*
- 2. As a matter of principle the Judgment is rendered without costs.*
- 3. Notwithstanding the above, the Tribunal may order the Defendant to pay a contribution toward the costs of the Tribunal. Whenever the hearing is held by video-conference, the maximum participation is CHF 7'500.*
- 4. The Tribunal may also order the unsuccessful Party to pay a contribution toward the prevailing Party's costs and expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and experts. If the prevailing Party was represented by a legal representative the contribution shall also cover legal costs.*



## VI. FACTUAL AND LEGAL APPRECIATION BY THE TRIBUNAL

72. In essence, the questions the Tribunal must determine are whether, in the circumstances of this case:

- (a) The rider committed an ADRV, and
- (b) If so, what are the Consequences of the ADRV.

### A. Preliminary matter violation of *ne bis in idem*

73. The results management of this procedure was done in two separate steps because the Rider provided a urine sample of an out-of competition anti-doping control on 24 November 2021, which was carried out by the PASO, the ruling body of the Games. Therefore, the PASO was in charge of the notification to the Rider and of the consequences resulting directly to the Games. In a second step, the International Federation, which is the UCI, had to be in charge of the Results Management of the case for the AAF in relation to consequences beyond the Games. In the present case, there is no violation of the principle of *ne bis in idem* as the PASO and the UCI were not in charge of the same parts of the ADRV. In addition, it is important to note that the PASO is independent and thus is not hierarchically dependent of the UCI or the UCI ADT.

74. Article 7.1.1 of the PASO ADR provides that:

*“For Results Management relating to a Sample initiated and taken during an Event conducted by Panam Sports, or an anti-doping rule violation occurring during such Event, Panam Sports shall assume Results Management responsibility for conducting a hearing to determine whether an anti-doping rule violation was committed and, if so, the applicable Disqualifications under Articles 9, 10.1, 11.2 and 11.4, any forfeiture of any medals, points, or prizes from that Event, any exclusion from the Event, any loss of accreditation for the Event, and any recovery of costs applicable to the anti-doping rule violation. For completion of Results Management, Panam Sports shall refer the case to the applicable International Federation.”*

As per Article 7.1.1 of the PASO ADR, in case a sample is collected during an Event conducted by a MEO, the PASO in the case at hand, it shall assume Results Management to determine whether an ADRV was committed or not. Equally, the MEO shall refer the case to the applicable International Federation (i.e. here the UCI) for completion of Results Management.

75. As provided under its rules, PASO determined that the Rider committed an ADRV and disqualified him from all the competitions he took part during the Games with all related consequences, including withdrawal of the medal obtained on 26 November 2021 with the Argentinian Team.

**B. Did the rider commit an ADRV?**

76. The PASO DC rendered its decision on 23 February 2023 and has, according to the information currently on file, not been appealed nor is under appeal. The PASO DC's decision dated 23 February 2023 is therefore final and binding.
77. Under the UCI ADR, it does not fall under the Single Judge remits to review PASO's decision regarding the establishment of the ADRV.
78. For the sake of completeness, however, the Tribunal would like to address the Rider's procedural complains, with regards to the proceedings carried out by the PASO and by the UCI.
79. According to Article 3.2.5 of the UCI ADR, the facts which have been established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not subject of a pending appeal shall be irrefutable, unless the Rider demonstrates that the decision violated principles of natural justice.
80. With regard to this, the Tribunal observes that the Rider claims the following:
- (a) That he was not informed of his right to have legal technical assistance for his defence;
  - (b) He was not offered a lawyer or technical legal assistance by the PASO DC;
  - (c) He was only informed of the removal of awards as a consequence for the AAF but was not made aware of an eventual suspension;
  - (d) The UCRA did not intervene in his defence despite of the fact that it was obliged to do so;
  - (e) He could not control the impartiality of the PASO DC's judges who heard his case; and
  - (f) Alleged irregularities in the collection of the Sample.
81. With regards the proceedings before the PASO DC, the Single Judge notes that the Rider was duly notified of the AAF by means of a letter dated 17 December 2023., waived his right to have the B-Sample Analysis and the PASO's decision was rendered following a hearing, with the presence of the Rider. Finally, it must be noted that the Rider did not appeal the PASO's decision.
82. Furthermore, according to Article 2.1.1 of the PASO and UCI ADR, each rider is responsible for any Prohibited Substance, or its Metabolites or Markers present in his or her sample and it is not necessary that intent, fault, negligence or knowing use on the rider's part be demonstrated to establish an ADRV.
83. Moreover, under Article 2.1.2 of the PASO and UCI ADR, the presence of a Prohibited Substance or its Metabolites or Markers in a rider's A-sample, where the rider waives the analysis of the B-Sample, constitutes sufficient proof of an ADRV for Presence of a Prohibited Substance under Article 2.
84. According to Article 6.1 of the UCI ADR the analysis must be conducted by a WADA-accredited Laboratory, or a Laboratory otherwise approved by WADA.

85. In the present case, the Sample collected from the Rider during the Games has been analysed by the WADA Accredited Laboratory of Salt Lake City, USA. The analysis of the sample provided by the Rider revealed the presence of Stanozolol and its metabolites. Upon being notified of the AAF by PASO, the Rider waived his right to have the B-Sample opened and analysed, and to receive the A-Sample LDP.
86. Moreover, the Rider has not contested the presence of Stanozolol and its metabolites in his urine sample, nor challenged the laboratory analysis or the results of that analysis; on the contrary, the Rider has effectively submitted an explanation for the presence of this substance in his body according to which the Argentinian Team staff would have manipulated his supplements. However, after the analyses of his supplements, the rider explained that all returned negative as the relevant technology was not available at the laboratory.
87. In view of all the above, the Single Judge sees no reason to depart from the PASO DC decision on the establishment of the ADRV. Therefore, the Tribunal finds that the Rider committed an ADRV according to Article 2.1 of the PASO/UCI ADR.

**C. What are Consequences of the Rider’s anti-doping rule violation?**

88. As mentioned in the previous section, the Single judge role in the present case is to determine the applicable consequences beyond the Games, including the period of Ineligibility (1), any applicable Disqualification of results (2), and any financial consequences (3).

**1. Period of Ineligibility**

**a. Default length of the period of Ineligibility**

89. For first time violations of Article 2.1 of the UCI ADR, the starting point to determine the length of a period of Ineligibility is Article 10.2 of the UCI ADR. According to Article 10.2.1.1 of the UCI ADR, the period of Ineligibility to be imposed shall be four (4) years where “[t]he anti-doping rule violation does not involve a Specified Substance, unless the Rider or other Person can establish that the anti-doping rule violation was not intentional”.
90. In this matter, the anti-doping rule violation does not involve a Specified Substance as Stanozolol is not considered a Specified Substance according to the Prohibited List. Therefore, the starting point of the length of period of ineligibility for this violation is four years.
91. The Rider may reduce this period of Ineligibility if he establishes, to the balance of probability standard that the violation was not intentional (b.). If the violation is not intentional, the Rider may be entitled to a further reduction – or even elimination – of his period of ineligibility if he establishes that one of the Fault-related reductions set forth in Articles 10.5 or 10.6 of the UCI ADR apply. Finally, the Rider may also reduce or suspend his period of Ineligibility by establishing that one of the non-Fault related reductions in Article 10.7 of the UCI ADR apply (c.).

**b. Failure to convince the Tribunal that the violation was not intentional**

92. For violations which do not involve Specified Substances (such as the violation at stake), if the Rider establishes that the violation was not “intentional” within the meaning of the UCI

ADR, the length of the period of Ineligibility would, as a first step, be reduced from four to two years. As set forth above and quoting Article 10.2.3 of the UCI ADR:

*“as used in Article 10.2, the term “intentional” is meant to identify those Riders or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk.”*

93. It is the Rider who bears the burden of proof to establish that the violation was not committed intentionally. According to the general rule set forth in Article 3.1 UCI ADR, the standard of proof is by a balance of probability. The Rider has failed to submit any evidence to rebut the above presumption. In the present case, the Rider merely alleged that the presence of Stanazolol and its metabolites in his Sample, could be explained by the fact that he had taken supplements contaminated by members of the Argentinian Team. In particular, he stated that the Argentinian Team staff, who were allegedly involved in other athletes' positive tests, manipulated his supplements. However, as mentioned by the Rider, all the analyses of his supplements returned negative, apparently because the relevant technology was not available at the laboratory that conducted the analyses.
94. The Single Judge can only note that the Rider submitted no corroborating document, let alone scientific evidence to support his words.
95. Finally, the Rider submitted that he has not used a Prohibited Substance and has a clean Anti-Doping history.
96. On balance and in consideration of all the evidence at hand, the Single Judge considers that the Rider has failed to establish by the balance of probability standard that the violation was not intentional.
97. More specifically, the Rider has not successfully established the presence of Stanazolol and its metabolites in his Sample arose by any other means than an intentional Use of the Prohibited Substance. The Single Judge concurs with the UCI that it cannot be enough to simply deny the ingestion of a Prohibited Substance. As already confirmed on multiple occasions by this Tribunal, *“a simple denial without any supporting evidence should be afforded at most limited evidentiary weight”*.
98. The Single Judge also takes note of the Comment to Article 10.2.1.1, which provides as follows:

*“While it is theoretically possible for a Rider or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 a Rider will be successful in proving that the Rider acted unintentionally without establishing the source of the Prohibited Substance.”*
99. However, in the present case, the Single Judge does not see any exceptional circumstances that could somehow establish a lack of intention without having proven the source of the Prohibited Substances.
100. Therefore, the Single Judge finds that the standard period of ineligibility applies to the Rider, i.e. 4 years.

101. In light of the above comment, the Single Judge would only note that the Rider did not otherwise discharge his burden to establish the violation was not intentional.

**c. No (Significant) Fault or Negligence**

102. As a general matter, a Rider may be entitled to a reduction – or even elimination – of the period of ineligibility, if he establishes that one of the Fault-related reductions enshrined in Articles 10.5 or 10.6 ADR apply. The application of a reduction based on both Articles requires that the Rider establishes how the Prohibited Substance entered his or her system (see Appendix 1 ADR).

103. In the present case, as the Rider has failed to establish that the violation was not intentional, the Rider cannot benefit from any of the Fault-related reductions in Articles 10.5 or 10.6 of the UCI ADR. Nor are any of the non-Fault-related reductions in Article 10.7 applicable in this case.

**d. Commencement of the period of Ineligibility**

104. Article 10.13 of the UCI ADR provides as a general rule that the period of Ineligibility shall start on the date of the final hearing decision. In addition, Article 10.13.2.1 of the UCI ADR also provides that the Rider receives credit for any Provisional Suspension that was imposed on him, provided that he respected the terms of the Provisional Suspension.

105. The Tribunal sees no reason to deviate from this general rule. The Rider in the present case has been Provisionally Suspended since 17 December 2021. It is not contested that the Rider respected this Provisional Suspension. Accordingly, the Tribunal holds that the Rider shall receive a credit for the period of the Provisional Suspension, i.e. from 17 December 2021 until the date of the present Judgment.

**e. Conclusion**

106. In light of the above, the Rider's period of Ineligibility shall be four years.

107. In reaching this conclusion, the entirety of the Rider's submissions was reviewed. Any other arguments or allegations raised by the Rider throughout the proceeding were considered and dismissed.

**2. Disqualification**

108. As for the automatic Disqualification of results, Article 9 of the UCI ADR provides as follows:

*"An anti-doping rule violation in connection with an In-Competition test automatically leads to Disqualification of the result obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes."*

109. Article 10.8 of the UCI ADR provides as follows:

*"In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Rider obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension"*

*or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.”*

110. The general rule of Article 9 of the UCI ADR leads to Disqualification of results in connection with an In-Competition test only. The general rule of Article 10.8 of the UCI ADR requires Disqualification of all competitive results following *“the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred.”*
111. As the Rider’s results at the Games have already been disqualified by the PASO, only Article 10.10 of the UCI ADR is relevant to the case at hand.
112. Article 10.10 of the UCI ADR provides as follows:  
*“In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Rider obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.”*
113. From the information currently on file, the Tribunal notes that the Rider did not participate in any competition between 24 November and 17 December 2021, i.e. the date on which he was provisionally suspended. Therefore, the Tribunal considers that there no need to apply any disqualification to the rider during this period.

### **3. Mandatory fine and costs**

114. Pursuant to Article 10.12.1.1 of the UCI ADR: *“[a] fine shall be imposed in case a Rider or other Person exercising a professional activity in cycling is found to have committed an intentional anti-doping rule violation within the meaning of Article 10.2.3 [of the UCI ADR]”.*
115. Given the circumstances of the present case, however, the UCI does not request the Tribunal to impose on the Rider a mandatory fine because the Rider was not exercising a professional activity in cycling.
116. Accordingly, the Tribunal holds that the Rider is not subject to a mandatory fine. Indeed, the Rider is not exercising a professional activity in cycling.
117. The Tribunal decides on the other hand that the Rider shall bear the costs of Results Management set to CHF 2’500 (two thousand and five hundred Swiss francs), in accordance with Article 10.12.2 of the UCI ADR.

## **VII. COSTS OF THE PROCEEDINGS**

118. Article 29 of the ADT Rules provides as follows:

*“1. The Tribunal shall determine in its judgment the costs of the proceedings as provided under Article 10.12.2 para. 1 ADR.*

*2. As a matter of principle the Judgment is rendered without costs.*

3. *Notwithstanding the above, the Tribunal may order the Defendant to pay a contribution toward the costs of the Tribunal. Whenever the hearing is held by videoconference, the maximum participation is CHF 7'500.*

4. *The Tribunal may also order the unsuccessful Party to pay a contribution toward the prevailing Party's costs and expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and experts. If the prevailing Party was represented by a legal representative the contribution shall also cover legal costs."*

119. In application of Article 29.2 of the ADT Rules, the Single Judge decides that the present Judgment is rendered without costs. In light of all of the circumstances of this case, the Single Judge finds it appropriate to not order the Rider (as the unsuccessful party) to pay a contribution towards the UCI's costs.

## **VIII. RULING**

120. In light of all the above, the Tribunal decides as follows:

- 1. Mr. Juan Manuel Godoy has committed an Anti-Doping Rule Violation.**
- 2. Ms. Juan Manuel Godoy is suspended for a period of Ineligibility of four years. The period of Ineligibility shall commence on the date of the decision, i.e. 20<sup>th</sup> December 2023. However, considering the credit for the period of the Provisional Suspension already served by Mr. Juan Manuel Godoy since 17 December 2021, Mr. Juan Manuel Godoy's period of Ineligibility effectively began on 17 December 2021, and will end four years from this date, i.e. 16 December 2025.**
- 3. Mr Juan Manuel Godoy is ordered to pay to the UCI the amount of CHF 2'500 for the costs of results management.**
- 4. All other and/or further-reaching requests are dismissed.**
- 5. This Judgment is final and will be notified to**
  - a. Mr. Juan Manuel Godoy;**
  - b. Argentinian National Anti-Doping Organization;**
  - c. WADA; and**
  - d. UCI.**

121. This Judgment may be appealed before the CAS pursuant Article 31.2 of the ADT Rules and Article 74 of the UCI Constitution. The time limit to file the appeal is governed by the provisions in Article 13.2.5 of the UCI ADR.