

Decision of the Japan Anti-Doping Disciplinary Panel

Case 2016-006

Name of Athlete: X
Sport: Body building

Pursuant to the decision of the Hearing Panel convened for this case, the Japan Anti-Doping Disciplinary Panel has made the following decision with respect to this case.

November 7, 2016
Japan Anti-Doping Disciplinary Panel
Vice Chair: Takahiro Yamauchi

Hearing Panel Decision

The Hearing Panel for this case, which is composed of the following members appointed by the Chair of the Japan Anti-Doping Disciplinary Panel pursuant to Article 8.3.2 of the Japan Anti-Doping Code (hereinafter, the “Code”), has made the following decision concerning this case pursuant to the results of the hearing held on November 7, 2016 (hereinafter, the “Hearing”).

November 7, 2016
Takahiro Yamauchi _____
Toshio Asami _____
Masahiro Murayama _____

Decision:

- A violation of Article 2.1 of the Code is found to have occurred.
- In accordance with Articles 9 and 10.8 of the Code, all of the individual results of the Athlete obtained from September 25, 2016 (the date of sample collection) through October 14, 2016 (the commencement date of the provisional suspension period) (including the competition results at THE 2016 THIRD ALL JAPAN MEN’S PHYSIQUE CHAMPIONSHIP) shall be disqualified, and all medals, points and prizes obtained during such period shall be forfeited.
- In accordance with the main text of Articles 10.2.1.1 and 10.11.3.1 of the Code, a period of ineligibility shall be imposed for a period of four years starting from October 14, 2016.

Reasons:

- The substances “1-Testosterone” and “1-Androstenedione” which were detected from the Athlete in In-Competition testing conducted on September 25, 2016 are designated as prohibited substances under “S1. Anabolic Agents / 1. Anabolic Androgenic Steroids (AAS)” in The 2016 Prohibited List International Standard (hereinafter, the “Prohibited List”), and constitute “Prohibited Substance(s)” as prescribed in Article 2.1 of the Code.
- The Japan Anti-Doping Agency (hereinafter, “JADA”), by a telephone call on October 14, 2016 and subsequently by a document titled “Notice on Adverse Analytical Finding and assertion of the commission of violation as well as Notice on Provisional Suspension” dated October 19, 2016, informed the Athlete that 1-Testosterone had been detected from the Athlete’s urine sample, and that “October 31, 2016” was the deadline for responding as to whether or not the Athlete admits the violation in accordance with Article 7.10 of the Code and whether or not the Athlete requests an analysis of the B sample; however, JADA did not inform the Athlete, either by the aforementioned telephone call or document, that 1-Androstenedione had been detected. Thereafter, JADA informed the Athlete, by a document titled “Notice on Adverse Analytical Finding and assertion of the commission of violation as well as Notice on Provisional Suspension” dated November 2, 2016, that 1-Androstenedione had been detected from the Athlete’s urine sample; however, the date of “October 31, 2016”, a date before the date of such document, remained described in such document as the deadline for the response. Therefore JADA, by a telephone call on November 4, 2016 and subsequently by a document titled “Notice on Adverse Analytical Finding and assertion of the commission of violation as well as Notice on Provisional Suspension” dated November 4, 2016, informed the Athlete once more that the deadline for the response for 1-Testosterone was “October 31, 2016”, and that the deadline for the response for 1-Androstenedione was “noon of November 7, 2016.” The matters required to be notified under the notice for provisional suspension are set forth in Article 7.3.1 of the Code, and this notice for provisional suspension is an extremely important document from the perspectives of guarantee of procedures of the Athlete; however, it is decided that no procedural defects can be found in this case in light of the facts that the Athlete was consequently secured, to a certain extent, of a period to deeply consider the aforementioned matters till the Hearing, and that the Athlete did not contest the test results or the process and procedure that led to those results at the provisional hearing (a provisional hearing regarding the provisional suspension was held on November 7, 2016) or the Hearing.
- Accordingly, the Athlete can be found to have violated Article 2.1 of the Code (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) in this case (hereinafter, the “Violation”), and in accordance with Articles 9 and 10.8 of the Code, all of the individual results of the Athlete obtained from the date of sample collection through the commencement date of the provisional suspension period (including the competition results

at THE 2016 THIRD ALL JAPAN MEN'S PHYSIQUE CHAMPIONSHIP; hereinafter, the "Competition") shall be disqualified, and all medals, points and prizes obtained during such period (if any) shall be forfeited.

- The substances above which were detected in this case, while on the one hand constituting "Prohibited Substance(s)," are not "Specified Substance(s)" under the Prohibited List. The Athlete has self-reported in the Doping Control Form that he had taken nine types of supplements within seven days, and has admitted in the hearing that he had taken a total of thirty six types of supplements in the past year. According to the Athlete, most of these supplements were purchased from a US mail order site and were used on a regular basis, and although he had briefly confirmed the ingredient charts, he had not taken these supplements by actually selecting those which did not contain Prohibited Substance(s). Due to these facts, as well as the fact that two types of Prohibited Substances were detected from the Athlete's body, it is evident that the Athlete manifestly disregarded a significant risk of resulting in the Violation with an awareness of such risk, meaning that it is evident that the Athlete has not been able to establish that the Violation was not intentional, and the main text of Article 10.2.1.1 applies.
- Taking into consideration the above circumstances and the fact that this was a first violation, it is appropriate to impose a four-year period of ineligibility pursuant to Article 10.2.1.1 of the Code.
- In this case, the Athlete has been under a provisional suspension pursuant to Article 7.9.1 of the Code from the date of notice of October 14, 2016 by the responsible person at JADA until the time of the present decision. Accordingly, pursuant to Article 10.11.3.1 of the Code, the commencement date for the period of ineligibility shall be October 14, 2016.

Based on the foregoing, we have made our decision as stated above.

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