

Decision of the National Anti-Doping Disciplinary Panel.

Case Ref: NADDP 03/2016

Anti-Doping Commission (Malta)

-vs-

**CLYDE CUTAJAR (Athlete member of the
Ghaqda Regatta Nazzjoni u Qdif lehor with
Maltese Identity Card No 281792M)**

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi as Chairperson, and Dr. Aaron Formosa and Dr. Abigail Sciberras as members.

Before the commencement of this proceeding, Dr. Aaron Formosa M.D. and Dr. Abigail Sciberras declared to the Chairperson that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The same declaration was made by the Chairperson to the 'Panel'.

1. Preliminaries

Considered the Request by the National Anti-Doping Commission (Ref. No. ITSTCLYCUT-15) of the 9th October, 2015 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Clyde Cutajar of the Anti-doping Regulations (Legal Notice 17 of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Programme, namely:

- (i) The request to the Panel to schedule a hearing dated 9th October, 2015 (16c);
- (ii) The letter by NADO to the National Association/Federation of the alleged breach by Clyde Cutajar dated 5th October, 2015 (Doc 13a);
- (iii) Letter of Notification by NADO to Clyde Cutajar of a possible violation of the Anti-Doping Rules dated 5th October, 2015 (Doc 11a);
- (iv) A copy of the Doping Control Officer Report Form and documents relating to the participation of Clyde Cutajar in the Regatta filed by NADO following the doping test on the 8th of September, 2015 (Doc 1 to Doc 6);
- (v) A copy of the Analysis Report dated 5th October, 2015 (Doc 8);
- (vi) A copy of the Report of Adverse Analytical Finding (Doc 9);

Took note of the Notice issued by the Panel to Clyde Cutajar to appear before the Panel on the 11th February, 2016 at 11am and answer to the accusation based on Article 3(2)(a) and (b) of L.N 17 of 2015 of the Laws of Malta:

" (2) *The following constitute anti-doping rule violations:*

- (a) *the presence of a prohibited substance or its metabolites or markers in an athlete's sample:*
- (b) *the use or attempted use by an athlete of a prohibited substance or a prohibited method:"*

Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission, the 'Ghaqda Regatta Nazzjonali u Qdif lehor' and Malta Sports Council.

2. Merits:

2.1 When the case was called, Clyde Cutajar did not appear. The Panel was at the premises from 11am until 1.30pm and Clyde Cutajar did not show.

2.2 The substance recorded in the Analysis Report of the urine 'A' sample of Clyde Cutajar In-Competition, is 'Nandrolone', considered as a prohibited substance classed as Anabolic Agent under S1 according to the 2015 Prohibited List.

3. Considerations:

3.1 The Panel is convinced that the case was proved in accordance of Article 3 (2) (a) (ii) (aa) and hence there was presence of 'Nandrolone' classified as Anabolic Steroids (Class S1.1.a) under the Prohibited List 2015, in the urine sample (A Sample) of Clyde Cutajar.

The Panel took notice of the exhibited documents, of the fact that there was no request for on part of the athlete for the testing of the 'B' Sample, the written submissions of Clyde Cutajar submitted through a legal letter of his lawyer Dr. Valentina Lattughi whereby it was declared that "*My client sustains that it absolutely wasn't his intention to violate the anti-doping rule.*" (letter dated 26th October, 2015 (Doc17)).

4. Decision:

Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

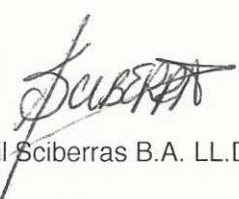
4.1 Clyde Cutajar has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a)] and WADA Code Art. 2.1, whereby the presence of a prohibited substance or its metabolites or markers has been found in Clyde Cutajar's urine sample A that had been collected from him on the 8th of September, 2015.

4.2 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11 (2) (a) of the Anti Doping Regulations, 2015 and Art. 10.2.1 of the WADA Code is imposing on the athlete Clyde Cutajar a suspension of ineligibility from any sports activities for a period of four (4) years commencing from the date of his provisional suspension if there was one. Otherwise the period of ineligibility is to start running from the date of this decision.

4.3 A copy of this decision is to be forwarded to the Malta Rowing Association (Ghaqda Regatta Nazzjonali u Qdif lehor).


Dr. Maria Azzopardi B.A. LL.D. LL.M (Sports Law)
Chairperson

Dr. Aaron Formosa M.D.
Member


Dr. Abigail Sciberras B.A. LL.D. (Int. Sports Law)
Member