

INTERNATIONAL RUGBY BOARD

IN THE MATTER OF A DOPING OFFENCE BY **LAVINIA GOULD**

BEFORE A BOARD JUDICIAL COMMITTEE APPOINTED PURSUANT TO CLAUSE 21, INTERNATIONAL RUGBY UNION WOMEN'S WORLD SEVENS SERIES ANTI-DOPING PROGRAMME 2012

Judicial Committee

Christopher Quinlan QC (England, Chairman)

Gregor Nicholson (Scotland)

Dr Margo Mountjoy (Canada)

Appearances and Attendances:

International Rugby Board

Ben Rutherford Legal Counsel, International Rugby Board ('IRB')

David Ho, Anti-Doping Manager, IRB

The Player

Lavinia Gould

Dominic Villa, Counsel for the Player

Keith Binnie, NZRU

Heard: 9 September 2013 (by way of telephone conference call)

DECISION OF THE BOARD JUDICIAL COMMITTEE

A. Introduction

1. Lavinia Gould ('the Player') is a member and player of New Zealand Rugby Union (the "Union"). She was tested in-competition after the IRB Women's World Seven Series ('the Series') match between New Zealand and South Africa played in Dubai on 1 December 2012. The Player's urine

sample (2752176) was sent to the World Anti-Doping Agency ('WADA') accredited laboratory in Bucharest, Romania. Her A sample contained methylhexaneamine.

2. Methylhexaneamine ("MHA") is listed in Section 6.b of WADA's 2012 List of Prohibited Substances. It is a Specified Substance. The WADA Prohibited List is incorporated as Schedule 2 to IRB Regulation 21. Section 16 of the Terms of Participation for the Series sets out the Series Anti-Doping Programme, based upon Regulation 21 as modified for the Series ('the Programme').
3. Dr Ismail Jakoet (South Africa) undertook a Preliminary Review in accordance with Clause 20.1 of the Programme. On 11 January 2013 he determined that an anti-doping rule violation might have been committed in contravention of Clause 2.1 thereof.
4. The IRB notified the Player of her Adverse Analytical Finding via the Union by letter dated 11 January 2013. Pursuant to Clause 19.1 she was provisionally suspended from that date. On 16 January 2013 the IRB received an email from Steve Tew, Chief Executive Officer of the Union, acknowledging receipt of the documents confirming the Adverse Analytical Finding of the Player and advising that on 15 January 2013 she had been notified of the findings and forwarded all case documentation.
5. By letter dated 25 January 2013 Mr Tew (on behalf of the Player) asked for the B sample to be tested. The B sample report of 5 February 2013 confirmed that the sample contained methylhexaneamine.
6. Pursuant to Clauses 21.1 and 21.21.2 we (Christopher Quinlan QC [Chairman], Dr Margo Mountjoy (Canada) and Gregor Nicholson (Scotland)) comprise the Board Judicial Committee ('BJC') appointed to consider this alleged anti-doping rule violation.

7. Having read and considered the relevant documentation and at the request of the IRB, on 6 March 2013 the Chairman issued directions pursuant to Clause 21.6. Those Directions were amended on 4 April 2013. Further Directions were issued by the Chairman and on 7 May 2013 and he conducted a Directions Hearing on 31 July 2013.
8. A hearing was conducted by telephone conference call on 9 September 2013. The BJC received further written submissions from the Player's Counsel on 11 September 2013.
9. At the conclusion of the hearing on 9 September 2013, we announced that we would promulgate our decision in writing as soon as practicable (after receipt and consideration of Mr Villa's further submissions and any IRB response thereto). This is our Decision and the reasons for it.

B. Anti-Doping Rule Violation

10. IRB Regulation 21 and the Programme set out both the framework under which all players can be subjected to Doping Control and the procedures for any alleged infringement. IRB Regulation 21 and the Programme adopt the mandatory provisions of the WAD Code. IRB Regulation 21 and the Programme are based upon the twin principles of personal responsibility and strict liability for the presence of Prohibited Substances or use of Prohibited Methods.
11. Clause 2 of the Programme provides:

"Players or other persons shall be responsible for knowing what constitutes an anti-doping violation and the substances and methods which have been included on the Prohibited List. The following constitutes anti-doping rule violations:

2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Player's Sample

(a) It is each Player's personal duty to ensure that no Prohibited Substance enters his body. Players are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples..."

12. At the outset of the hearing on 9 September 2013, the Player admitted committing the anti-doping rule violation as alleged.
13. The facts of the anti-doping rule violation are in short compass. The Player was tested in-competition after the IRB Women's World Seven Series ('the Series') match between New Zealand and South Africa played in Dubai on 1 December 2012. On the doping control form she declared Lipin, Protein NPI and Beta Alanine.
14. The Player's sample (2752176) was sent to the WADA accredited laboratory in Bucharest, Romania and received on 6 December. The sample was analysed and found to contain methylhexaneamine. Methylhexaneamine is listed in section S6 Simulants, namely as a Specified Stimulant in the WADA Prohibited List. That List is incorporated within the Programme as Appendix 2.
15. The IRB notified the Player of this Adverse Analytical Finding by letter dated 11 January 2013. By his email of 16 January 2013 Steve Tew, Chief Executive Officer of the Union, acknowledged receipt of the documents confirming the Adverse Analytical Finding of the Player and advised the IRB that The Player had been notified of the findings and had all the case documentation.
16. By letter dated 25 January 2013 Mr Tew (on behalf of the Player) asked for the B sample to be tested. The B sample was analysed by the same Bucharest laboratory and found to contain methylhexaneamine.
17. Pursuant to the Chairman's directions, the Player filed a statement dated 26 April 2013 and relied upon a further statement from her sister. The

material content of those statements is set out hereinafter (see paragraphs 27-29).

18. As is implicit in her witness statement the Player did not dispute the finding of methylhexaneamine in her sample. At the start of the hearing on 9 September 2013 she admitted thereby committing the anti-doping rule violation.

19. In light of the Player's admission and the other relevant evidence, the BJC is comfortably satisfied that the IRB discharged its burden and established that the Player committed an anti-doping rule violation contrary to Clause 2.1 of the Programme.

20. It is the Player's first such violation.

21. In consequence, the sole issue for the BJC is sanction.

C. Sanction

Regulatory Scheme

22. Clause 22.1 of the Programme provides:

"The period of Ineligibility imposed for a violation of Clause 2.1 (Presence of Prohibited Substance or its Metabolites or Markers), Clause 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) and Clause 2.6 (Possession of Prohibited Substances and Methods) shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided for in Clauses 22.3, 22.4, 22.5, 22.6, 22.7 and/or 22.8 or the conditions for increasing the period of Ineligibility, as provided in Clause 22.9, are met:

First violation: Two years."

23. Clause 22.3 of the Programme provides

“Where a Player or other Person can establish how a Specified Substance entered his body or came into his Possession and that such Specified Substance was not intended to enhance the Player’s sport performance or mask the Use of a performance-enhancing substance, the period of Ineligibility found in Clause 22.1 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years.

To justify any elimination or reduction from the maximum period of Ineligibility set out above, the Player or other Person must produce corroborating evidence in addition to his word which establishes to the comfortable satisfaction of the Judicial Committee the absence of intent to enhance sport performance or mask the Use of a performance enhancing substance. The Player’s or other Person’s degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility.”

24. Clause 22.4 of the Programme provides for the elimination or reduction of a period of ineligibility where the Player can establish how the prohibited substance entered her system and that she bears no fault or negligence.

25. Clause 22.5 of the Programme provides for the elimination or reduction of a period of ineligibility (in this case to not less than 12 months) where the Player can establish how the prohibited substance entered her system and that she bears no significant fault or negligence.

Player’s case

26. The Player did not seek to rely upon Clauses 22.4 or 22.5. Initially she sought to rely on Clause 22.3. Why that reliance was not maintained needs to be set out in some detail.

27. The Player was born on 15 March 1981. She is now thirty-two years of age. She has played representative rugby union since 2000. She is an

experienced player and knowledgeable about anti-doping. In her statement dated 26 April 2013 she said in 2012 she used Genetix beta-alanine and P30 Protein supplements. She admits to knowing her “responsibilities under the IRB’s anti-doping code” and appreciated that she could be “tested at any time” (paragraph 6). In that statement she acknowledged that it is “important to ensure that none of the supplements [she] was taking included banned substances” (paragraph 9). She said she was advised that the products she was using were “safe”. In addition she took Protein Powder by Red 8, provided to all members of her squad by the Union. She asserted in paragraph 25 of her statement that she had “never knowingly used performance enhancing drugs”.

28. Some time after being advised that her sample had tested positive for methylhexaneamine she was further advised by Tony Philpy (“TP”) of the Union to have her Genetix beta-alanine tested to see if it was “contaminated”. She said in that statement she purchased a new tub of Genetix beta-alanine and sent both it and her tub (and the remaining content) to TP who sent them onto the Australian Sports Drug Testing Laboratory (‘ASDTL’) for testing. Approximately one month expired between notification to the Player of her Adverse Analytical Finding and receipt by ASDTL of the supplements to be tested. Annexed to her statement is a report from that laboratory which reveals the presence of methylhexaneamine in what was said (by her) to be the powder she consumed, but not in the newly and unopened Genetix product (paragraphs 16-18).

29. Her sister Harmony Gould’s statement is dated 23 April 2013. She works as a fitness trainer and uses a number of supplements. At the material time she was using a supplement called Jack 3D, which was known to contain methylhexaneamine. She had bought Jack 3D in bulk (10 tubs) in July/August when she heard it was no longer going to be available and she used the last of these tubs in March 2013. (The BJC understands that Jack 3D no longer lists methylhexaneamine as an ingredient.) She stayed

with the Player and mixed 'shakes' using her (the Player's) supplements together with her own. She used her own spoon to mix such drinks. In paragraph 16 of her statement she purported to recall mixing drinks with her spoon comprising her Jack 3D and the Player's beta-alanine "a minimum of a dozen times dating back to August 2012 through to March 2013".

30. The Player's case, in summary appeared to the BJC therefore to be as follows. The ingestion of the Prohibited Substance was as a result her Genetix beta-alanine being contaminated with Jack 3D by way of the transfer of Jack 3D residue from her sister's spoon.

31. In light of that the BJC Chairman issued further Directions dated 4 May 2013. Therein he directed, inter alia:

"The BJC directs the IRB to obtain evidence to address the following relevant issues:

- (1) Whether or not the level of MHA detected in the Player's samples is consistent with the Player's case, namely cross-contamination by use of (same) spoon used to scoop the supplement Jack3D.*
- (2) The extent to which the level of MHA found in the Player's samples compare to other MHA findings, particularly cases where the athlete admitted taking a supplement containing MHA.*
- (3) Whether the level found in the Player's samples is consistent with the later analysis of the supplement reported by the Australian Government National Measurement Institute as 30ug/g*
- (4) From Drug Free Sport NZ/ Australian Government National Measurement Institute, evidence as to the size of the open container of the contaminated supplement which it received for analysis in February (their reference NA13/01753 sample 01) and how much of the supplement powder remained in that container.*

32. The above was to be obtained and filed with the BJC and served upon the

Player no later than 16.00 BST 18 May 2013. Necessarily the time for filing that expert report was subsequently varied.

33. The IRB sought further information from the Player and on 24 May 2013 BJC directed that it be provided. Pursuant thereto on 26 May 2013 the Player provided the following further information:

- a. She purchased only one 100g container of Genetix brand beta-alanine.
- b. She attempted to take a dose of 2g twice a day.
- c. For the two days before the Dubai tournament she used the said Genetix brand beta-alanine at a dose of 2g twice a day.

34. Pursuant to those Directions the IRB (helpfully) obtained and filed a report from the WADA accredited laboratory in Switzerland dated 3 June 2013 ('the 3 June report') The report is detailed and its conclusions explained, reasoned and supported by evidence. On the two crucial issues, namely (1) whether the powder submitted to the laboratory was the source of the adverse analytical finding and (2) whether the concentration is consistent with her case of 'innocent contamination', it is necessary to set them out in some detail.

35. As to the powder submitted to the laboratory at paragraphs 4.1 and 5 of the said report the authors opined:

"A simple addition of the doses taken by the Athlete and her sister [as advised by them] showed that at least 96g of Beta-Alanine were consumed [from the relevant container during the material period]. Taking into account that the Beta-Alanine is a 100g container and that 50g were remaining [as advised by the Australian laboratory by email to Mr Ricketts dated 15 May 2013], the probability that the supplement provided is the original material that resulted in an adverse analytical finding is extremely unlikely... [T]he consumption habits, circumstantial information and statements of the Athlete and the Athlete's sister are not consistent with the

declaration of the Athlete... [I]t is highly improbable that the container provided to ASDTL is the original material."

36. As to the concentration of methylhexaneamine a study was undertaken of the excretion rates of methylhexaneamine at the levels appearing in the beta-alanine container tested by ASDTL, based the Player's alleged consumption amounts and timings (including photographs of the spoon allegedly used). The report (at paragraphs 4.2 and 5) concluded that

"The consumption of Beta-Alanine contaminated with MHA at 30ng/g on the day of the competition and/or within the time of the tournament does not appear to be consistent with finding 500ng/mL of MHA in urine [as found in the Player's Sample], which is a significant concentration level consider the LOD [limit of detection] of the analytical method is 10 times lower than this value... During the first excretion study, no MHA was detected in any of the urinary samples monitoring the metabolism and excretion of the target compound on two successive days after consumption in contamination levels corresponding to the Beta-Alanine container provided by the Athlete. Therefore, the urinary levels found in the A and B urine samples are not consistent with the hypothesis upon which the Athlete was contaminated with MHA originating from the incriminated Beta-Alanine container."

37. A further study was undertaken of the excretion rate of methylhexaneamine at the levels appearing in Jack3D consumed with the Player's timeframes. The report (at paragraphs 4.3 and 5) concluded that

"[w]ithin the first 2h55 of the excretion study, MHA levels in the urine of the volunteer augmented from zero level up to 168ng/mL, and then up to ~1,300ng/mL after 9h55 before declining down to 900ng/mL after 12h25 [these timing intervals being the times between the doses of her supplement at which the Player indicated that she had consumption and the time of the Doping Control she submitted to]. Considering the 500ng/mL concentration

of MHA found for the A and B samples and the time frame, this urinary level would be consistent with the pharmacokinetics and cumulative effect of two half-doses of Jack3d used within the time frame described by the Athlete... [T]he concentration of MHA found in the A and B sample that resulted in the adverse analytical finding is compatible with the use of two half-doses of Jack3d or any analogue containing MHA in similar proportions on the final day of the tournament."

38. Thereafter a Directions hearing was conducted on 31 July 2013. Further Directions were issued and in consequence the IRB filed detailed written submissions dated 9 August 2013.

39. In accordance with the said Directions Mr Villa submitted written submissions dated 19 August 2013. Therein the Player abandoned her attempt to rely upon Clause 22.3 of the Programme. The Player's case was now advanced in these terms:

"1. The Player acknowledges the following matters:

- a. the Player was subject to an In-Competition Doping Control on 1 December 2012 following the IRB Women's World Sevens Series match played in Dubai between New Zealand and South Africa;*
- b. testing of the Player's A-Sample and B-Sample revealed the presence of methylhexanamine, a substance listed in the WADA Prohibited List 2012;*
- c. in participating in the Series, and having signed a Team Member Consent Form, the Player was subject to the IRB's jurisdiction and was bound by the IRB's Anti-Doping Regulations as incorporated into the Series Anti-Doping Programme;*
- d. the presence of methylhexanamine in the Player's sample constitutes an anti-doping rule violation under IRB Regulation 21.1.2;*
- e. the IRB has comfortably satisfied its burden of proof in establishing that an anti-doping rule violation has occurred.*

2. The Player, by her statement and the statement of her sister, has

attempted to explain how her samples came to contain methylhexaneamine. While that explanation has been given truthfully and honestly, having regard to the findings made by the WADA Accredited Laboratory in Switzerland in their report dated 3 June 2013 the Player accepts that the BJC could not be satisfied that the Player has established how the methylhexaneamine entered her body.

3. Accordingly, the Player acknowledges that she is unable to satisfy the threshold criteria for the application of IRB Regulation 21.22.3, 21.22.4 or 21.22.5, and that the BJC does not otherwise have the power to reduce the applicable period of ineligibility.

4. In those circumstances, the Player accepts the IRB's submission to the effect that she should be subject to a 2-year period of ineligibility."

40. The said submission also indicated that she was "content for the BJC to deal with the matter on the papers".

41. Notwithstanding the Player's written concession and preparedness to have the matter dealt with without an oral hearing (an approach on which the IRB was "neutral"), the 3 June 2013 report gave rise to the following issues about which the BJC wished to question the Player. Accordingly, we heard from the Player on 9 September 2013.

D. Decision

42. We have considered all the material put before us, both orally and in writing. This is the Player's first violation. The starting point is a period of ineligibility for two years unless she can satisfy us on the balance of probabilities a basis within Clause 22 for the elimination or reduction of that period of ineligibility.

43. She disavowed reliance upon Clause 22.3. We can well understand why: the 3 June report undermined comprehensively her case that the adverse analytical finding was caused by ‘innocent contamination’ of any supplement she was taking. She was bound to fail to discharge the burden upon her and so she recognized in Mr Villa’s written document of 19 August.
44. She did not seek to rely upon Clause 22.4 or 22.5. There was no sensible basis on which she could have done so.
45. Accordingly there is no basis for eliminating or reducing that starting point of two years ineligibility.
46. However, that was not the end of the matter. The BJC was concerned about what inferences might or should be drawn from the content of the 3 June report. More particularly, whether this was a case where we might properly find aggravating circumstances. Did the evidence of the report give rise to the justifiable (having regard to the appropriate burden and standard of proof) inference that the Player had submitted for analysis what she knew not to be the true remnants of the powder she consumed and/or had she submitted the remnants of the powder knowing that it was something else which she had consumed, and which she had not declared taking, which had been the source of the methylhexaneamine found in her sample. If the BJC so concluded then the question arose as to whether that conduct was such as to justify the application of Clause 22.9 by reference to the commentary to WAD Code Article 10.6, namely the Athlete....engaged in deceptive or obstructing conduct to avoid the....adjudication of an anti-doping rule violation, and/or the definition of “Tampering”, namely altering for an improper purpose or in an improper way; bringing improper influence to bear; misleading or engaging in any fraudulent conduct to....prevent normal procedures from occurring; or providing fraudulent information,

47. Clause 22.9 reads:

“If the Judicial Committee (or the judicial body of the Unions or Tournament Organisers) establishes in an individual case involving an anti-doping rule violation other than violations under Regulation 21.2.7 (Trafficking or Attempted Trafficking) and 21.2.8 (Administration or Attempted Administration) that aggravating circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four years unless the Player or other Person can prove to the comfortable satisfaction of the Judicial Committee that he did not knowingly commit the anti-doping rule violation.

A Player or other Person can avoid the application of this Regulation by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation by an Anti-Doping Organisation.”

48. In regard to whether the Player admitted the anti-doping rule violation promptly, in all of the correspondence and submissions presented to the BJC prior to the hearing on 9 September 2013 there was nothing to indicate that she did so prior to her oral admission at the start of the hearing on that date.

49. Clause 22.9 reflects verbatim IRB Regulation 21.22.9 but not WADC Article 10.6. from which it derives. Curiously (and unlike WADC Article 10.6) it provides that the BJC (or judicial body of the Unions or Tournament Organisers) may “establish”. The reference to the BJC or other tribunal is curious since it is not for the BJC (or any other tribunal) to “establish” (if that means proves) anything. The BJC decides, not establishes. It might find [a fact or facts] established (i.e. conclude) but that is different. This not pettifogging pedantry for we were anxious to ascertain from Clause 22.9 upon whom the burden lay and what was the appropriate standard of proof. It offers little assistance on either. WADC

Article 10.6 is clear on the burden for it provides, *“If the Anti-Doping Organization establishes...”*.

50. The central issues arising out of Clause 22.9 seemed to us to be

- a. Are we satisfied that aggravating circumstances are present?
- b. If so, whether such aggravating circumstances justify the imposition of a period of Ineligibility greater than two years; and
- c. If so, the extent of that increased period up to a maximum of four years

51. We sought the submissions of the parties. We received and read further submissions from Mr Villa, on dosage, dated 11 September. In response, the IRB did not rely upon Clause 22.9. When asked on 9 September 2013 Mr Rutherford said that the IRB did “not assert that aggravating circumstances should be applied”. Thereafter the BJC members convened and then issued further Directions in these terms on 15 September 2013:

“Further to the submissions received from Mr Villa, and Mr Rutherford’s email setting out the IRB’s position, we should like to receive further written submissions as directed below:

- a. *By 16.00 20/9/13 (BST) written submission from the player to address*
 - i. *What legitimate inferences is it open to the BJC be draw from the three conclusions in the final paragraph of the Swiss laboratory’s Scientific Report of 13 June 2013. At present we are considering whether it is legitimate to infer from those (or any one or more of them) that either the Player submitted the residue powder for testing by ASDT*
 1. *Knowing it was not in the form she took – so it had been ‘tampered’ with either by her or by another and she was party to such tampering and/or*
 2. *knowing it was not the source of the MHA in her A and B sample*

- ii. *If we were to draw inferences adverse to her, whether it is open to us to apply IRB Reg 17.22.9 (aggravating circumstances)*
- iii. *If so, to what extent?*
- b. *A written response thereto from the IRB to include explanation as to why it (a) does not invite the BJC to draw inferences adverse to the Player and (b) if those inferences are drawn why it is not legitimate for the BJC to consider application of IRB Reg 17.22.9 (aggravating circumstances)*
- c. *Should either party wish to make oral submissions to the BJC, liberty to apply.*
- d. *Liberty to apply to vary these directions, on notice.*

52. In compliance therewith Mr Villa submitted further detailed written submission dated 20 September 2013. He invited us to adopt a high standard of proof and criticised the language of the 3 June report. He suggested that the Player's account was corroborated and submitted that inadvertently contaminated could not be excluded.

53. The IRB submitted written submission dated 27 September 2013. In paragraph 2 thereof Mr Rutherford set out the IRB's position and the reasons for it:

"The rationale for the IRB's election not to invite such inferences to be drawn in this particular case derives from the IRB's contentment taking into account all of the circumstances of the case, including without limitation the particular Prohibited Substance and the jurisprudence with respect to the range of sanctions which have been imposed in rugby and other sports pertaining to this substance, that a sanction of two years is proportionate and appropriate. Accordingly, the IRB does not (and did not) seek to make any submission with respect to any adverse inferences which may be drawn against the Player from this section of the laboratory's report nor, in turn, aggravation. Thus, the IRB does not and did not invite the BJC to make any such findings. Notwithstanding, as noted in its email dated 12

September 2013, the IRB in taking this position does not concede or accept any of the purported criticisms of the report of the WADA Accredited Laboratory. The IRB simply takes the position as described, namely, that in its view a two-year period of Ineligibility is proportionate and appropriate in the circumstances of this case and hence it is unnecessary to invite the BJC to make such inferences. "

54. If we may say so the difficulty with that approach is it takes a view on the appropriate sanction without following the steps outlined in paragraph 50 hereof: Consider first whether there are aggravating circumstances; if not, two years is appropriate. If there are, then do they justify an increased period? If so, what is the appropriate additional period of ineligibility? To "simply take the position" that two years is proportionate and appropriate presumes the absence of proven aggravating circumstances.

55. The position of neutrality is further reflected by paragraph 3 of Mr Rutherford's submission which provides, "*...the IRB has not made (and does not seek to make) submission that it is not legitimate for the BJC to consider the application of IRB Regulation 17.22.9 as a matter of law or regulation, It also does not make (nor seek to make) the contrary submission*". He further categorised the position set out in his paragraph 2 as a "*policy decision*".

56. Looking for light to guide us in this difficult area, we had only our own torch. We convened again to consider and debate the written submissions. We were extremely anxious about the 3 June report and what proper inferences we might draw from it even allowing the benefit of doubt to the Player on some of the issues raised by her Counsel in regard to the amount of the supplement consumed and the amount that remained and was sent for analysis. We heard from her. There are obvious limitations and difficulties in assessing a person's credibility by telephone. We were and are left with an uneasy uncertainty about the

origins of what was submitted to ASDTL and what the true source of the methylhexaneamine was. Suspicions will not suffice and we deliberated long and hard whether we could be comfortably satisfied to find aggravating circumstances on the part of the player. Ultimately we agreed that we could not.

57. In light of the Player's failure to establish any basis for the elimination or reduction of the period of ineligibility, the sanction for her anti-doping rule violation committed on 1 December 2012 by reason of the presence in his urine sample of methylhexaneamine is fixed: it is a period of ineligibility of two years, commencing on the date her provisional suspension took effect, namely 11 January 2013. The period of ineligibility runs until midnight on 10 January 2015.

58. The meaning of Ineligibility is as provided in Clause 22.13A(i) provides:

"No Player or Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Match and/or Tournament (international or otherwise) or activity (other than authorised anti-doping education or rehabilitation programmes) authorised or organised by the Board or any member Union or Tournament Organiser. Such participation includes but is not limited to coaching, officiating, selection, team management, administration or promotion of the Game, playing, training as part of a team or squad, or involvement in the Game in any other capacity in any Union in membership of the IRB."

Appeal

59. This decision is final, subject to a Post Hearing Review Body (Clause 25) and, if applicable, an appeal to the Court of Arbitration for Sport (Clause 26).

Costs

60. The IRB expressly did not apply for costs. Accordingly, the BJC makes no order for costs.

A handwritten signature in black ink, appearing to read 'Christopher Quinlan', written in a cursive style.

Christopher Quinlan QC

Chairman

Bristol, England

27 October 2013