

National Anti-Doping Panel

Before:

Matthew Lohn (Chair)
Carole Billington-Wood
Dr Barry O'Driscoll

Between:

UK Anti-Doping (National Anti-Doping Organisation)

and

Mr Simon Carly (Respondent)

**IN THE MATTER OF PROCEEDINGS BROUGHT
UNDER THE ANTI-DOPING RULES OF THE
BRITISH BOBSLEIGH ASSOCIATION ("BBA")**

CONSENT ORDER

WHEREAS:

- A. The Respondent is a 24 year old bobsleigh athlete who competes in competitions sanctioned by and staged under the rules of the BBA and the Federation Internationale de Bobsleigh et de Tobogganing ("FIBT"). As a competitor in meetings and events for the BBA and sanctioned by the FIBT, the Respondent is subject to and bound to comply at all times with the requirements of the BBA Competition Rules, including the BBA Anti-Doping Rules ("ADR").
- B. On 28 February 2012, the Respondent was requested by UK Anti-Doping to, and did, provide a sample for doping control purposes (sample 1096267) (the "Sample"). The Sample was sent to the World Anti-Doping Agency ("WADA") accredited laboratory in Cologne for analysis, and on 22 March 2012 an Adverse Analytical Finding for the Prohibited Substance Clenbuterol was reported in the Sample.
- C. On 4 April 2012, UK Anti-Doping issued a Notice of Charge to the Respondent for violations of Articles 2.1 (Presence) and 2.2 (Use) of the BBA Anti-Doping Rules.
- D. On 8 April 2012, the Respondent requested the matter be referred to the National Anti-Doping Panel ("NADP") for hearing and determination in accordance with the ADR and NADP Procedural Rules. The NADP President convened the above-referenced NADP members to form an NADP Tribunal for that purpose.
- E. Following a telephone directions hearing, on 4 May 2012 the Chair of the NADP Tribunal issued directions to the parties. UK Anti-Doping was directed to, and did, submit evidence pertaining to its jurisdiction to subject the Respondent to anti-doping testing under the BBA ADR. On 18 May 2012, the Respondent withdrew his jurisdictional challenge, and requested an adjournment of the hearing date.
- F. The Chair of the Tribunal issued further directions to the parties dated 30 May 2012, and 4 July 2012 and 17 August 2012, the latter directions providing for the matter to be heard on 4 September 2012.

- G. The parties have proposed a resolution of the matter on the terms set out below, subject to the approval of the NADP Tribunal.

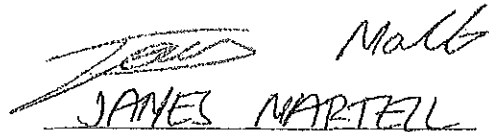
NOW, THEREFORE, WITH THE CONSENT OF THE PARTIES, IT IS HEREBY ORDERED THAT:

1. The Respondent hereby admits the use of the Prohibited Substance Clenbuterol during January and February 2012, in violation of Article 2.2 of the BBA ADR. This use occurred via the Respondent's intentional consumption of a tablet-form weight loss product that he understood to be a Chinese manufactured "fat burner", whilst recovering from surgery.
2. The Respondent also admits the Adverse Analytical Finding in relation to the Sample, in violation of Article 2.1 of the BBA ADR.
3. As a consequence, a period of Ineligibility is imposed upon the Respondent of two years, calculated as follows:
 - 3.1 BBA ADR 10.2 provides for a two-year period of Ineligibility for BBA ADR 2.1 and ADR 2.2 violations that are first violations, subject to mitigation under BBA ADR 10.5;
 - 3.2 There is no mitigation under BBA ADR 10.5.
 - 3.3 BBA ADR Article 10.8 does not apply;
 - 3.4 Under BBA ADR Article 10.9, Mr Carty has been provisionally suspended since 4 April 2012, and therefore the period of Ineligibility commences on 4 April 2012 until midnight on 3 April 2014.
4. During the two year period of Ineligibility:
 - 4.1 In accordance with Article 10.10.1 of the BBA ADR, the Respondent may not participate in any capacity in any Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by (a) the BBA or any body that is a member of, or affiliated to, or licensed by the BBA; (b) and Signatory; (c) any club or other body that is a member organisation; or (d) any professional league or any international or national level Event organisation. In addition, save where the Anti-Doping Rule Violation involved only a Specified Substance, some or all financial support or benefits (if any) that the BBA might have otherwise provided to the Participant shall be withheld. In addition, the BBA shall take all steps within its power to have the period of Ineligibility recognised and enforced by all relevant parties, including other Signatories pursuant to Code Article 15.4;
 - 4.2 The Respondent shall remain subject to and bound to comply with the BBA ADR, including the obligation to submit to drug-testing under the rules. If requested, he will provide information as to his whereabouts to facilitate such testing, in accordance with Article 5.4.1 of the BBA ADR.
5. There shall be no order as to the costs of these proceedings.
6. The disposition of these proceedings on the terms set out above will be publicly announced via UK Anti-Doping's website.
7. The Respondent has no further right of appeal against this Order, but each of the FIBT and the World Anti-Doping Agency has a right of appeal against this Order or any part of it in accordance with BBA ADR 13.

ACKNOWLEDGED AND AGREED:



For and on behalf of UK Anti-Doping Ltd
By: *Richard Redmond*
Date: 31. 8. 2012



For and on behalf of Simon Carty
Date: 30/ 8/ 2012

SO ORDERED:



Chairman, NADP Tribunal
Date: 3 September 2012