

# **CANADIAN CENTRE FOR ETHICS IN SPORT**

IN THE MATTER OF AN APPLICATION BY ERIC LAMAZE  
FOR A CATEGORY II REINSTATEMENT PURSUANT TO THE  
DOPING CONTROL STANDARD OPERATING PROCEDURES

## **DECISION**

**ED RATUSHNY, Q.C.  
ADJUDICATOR**

OTTAWA, ONTARIO

January 31, 1997

# APPEARANCES

|                    |   |
|--------------------|---|
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# ALSO PARTICIPATING

|                     |  |
|---------------------|--|
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# ALSO ATTENDING

|   |                                      |
|---|--------------------------------------|
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## **I. BACKGROUND TO THE ARBITRATION:**

Mr. Eric Lamaze has been a member of the Canadian Equestrian Team since 1993. During the week of May 29 to June 5, 1996, he competed at the Canadian Olympic Trials held at Spruce Meadows in Calgary, Alberta. He qualified to represent Canada at the Atlanta Olympic Games and submitted to drug testing on June 5. On June 24, he was advised that the test results were positive, indicating the presence of a banned substance in the form of cocaine metabolites. He was suspended for the minimum period of four years pursuant to the *Canadian Policy on Penalties for Doping in Sport*.

The Canadian Centre for Ethics in Sport is responsible for all aspects of doping control in amateur sports. It conducts this mandate through the *Standard Operating Procedures* (S.O.P.). The S.O.P. provide distinct avenues of redress in sections 10 and 11 respectively for athletes who have tested positive. Section 10 provides for an appeal on the limited issue of whether the test results are reliable. Section 11 is available to an athlete who has committed an infraction but who seeks to prove that exceptional circumstances exist which justify reinstatement prior to completion of the full suspension which had been imposed (in this case, the minimum of four years).

The Applicant concedes that his test results were reliable and that they indicated the presence of a substance banned by the International Olympic Committee. Nevertheless, he purports to launch a section 10 appeal as a vehicle for challenging the legality and constitutional validity of the entire doping control regime. As a result, he contends, no infraction occurred and his suspension is void from the beginning.

The Applicant also applied for reinstatement pursuant to section 11 of the S.O.P. in the event that the challenge to the entire regime should prove to be unsuccessful. The application for reinstatement flows from the existence of an infraction which resulted in the imposition of a penalty. While this application may appear to be inconsistent with the first challenge, it concedes that Mr. Lamaze did commit an infraction under the S.O.P.. However, that concession is made only to the extent the entire doping control regime

reflected in the S.O.P. is found to be legally and constitutionally valid.

By agreement dated December 17, 1996, the Applicant and the Canadian Centre for Ethics in Sport agreed to my appointment as Arbitrator with respect to the section 10 appeal. I was also appointed to conduct the section 11 reinstatement proceedings. Both of these matters had been before another Arbitrator but were withdrawn by the Applicant with the consent of all parties on November 25, 1996. They take the position that earlier proceedings are not relevant to the matters now before me.

As required by both sections 10 and 11 of the S.O.P., a Preliminary Meeting was conducted on December 23, 1996, and continued on January 6, 1997. The Applicant first sought to proceed with the legal and constitutional challenges based on the purported section 10 appeal. Indeed, summary judgement was requested. Counsel for the Respondent (Canadian Centre for Ethics in Sport) waived the time limits with respect to the section 10 matter but argued that a sufficient evidentiary base had not been established for the legal and constitutional challenges. An order for further production of documents was granted. However, it was apparent that further documentation and extensive argument would be required to deal with these complex issues. Indeed, I am still not satisfied that I have jurisdiction to decide these matters.

The Applicant then sought an interim stay of the suspension on the basis that he was facing potentially disastrous financial consequences. The suspension has already caused great financial loss. The inability to participate in the forthcoming competition in the United States from late February to early April would mean sale of the horses, bankruptcy and drastic consequences to Eric Lamaze's career. A stay of the suspension for 45 days was requested. While the Respondent conceded the potentially disastrous consequences, counsel took the position that I had no jurisdiction to grant such a stay, which would require a judicial order.

Since it became apparent the legal and constitutional challenges could not be addressed until the days set aside in late March, at the earliest, the Applicant requested that the day available in January be devoted to the reinstatement application pursuant to Category II of section 11. The Applicant then sought a temporary reinstatement pursuant to that section. The Canadian Centre for Ethics in Sport and commission counsel both took the position that section 11 contemplated only full reinstatement. Counsel for the Canadian Equestrian Federation was of the view that the wording of section 11 could be interpreted to permit the temporary lifting of a suspension.

In my view, the wording of section 11 is broad enough to accommodate a temporary reinstatement. Moreover, it would be supportive of the S.O.P. for any such order to be made by the adjudicator seized with the section 11 proceedings rather than to require a judicial order. However, a temporary reinstatement should be granted only in compelling circumstances (which may exist here) and where the full reinstatement hearing cannot proceed in a timely fashion (which is not the case here).

Ultimately, all of the parties agreed to proceed with the Category II Reinstatement Application on January 23rd. The hearing commenced and was completed on that day. The Applicant waived any objection which might arise with respect to two matters, namely:

- (a) the Adjudicator is a member of the Board of Regents of both the Sport Medicine and Science Council of Canada and the Ontario Women's Hockey Association; and
- (b) Counsel for the Canadian Centre for Ethics in Sport acts as "Commission Counsel" to the Arbitrator pursuant to s. 11.2.1(iii) of the S.O.P. while at the same time acting as Counsel for the Respondent in the s. 10 Appeal.

The waiver with respect to (b) is restricted to this Category II Reinstatement Application and is without prejudice to any broader challenge based on the purported unfairness of the entire doping control regime for amateur athletes in Canada.

Finally, during the Preliminary Meeting, Counsel for the Applicant pressed the Representative of Sport Canada for its "position" with respect to the Reinstatement Application. Mr. Sorenson explained that Sport Canada's position was, essentially, to support the Policy reflected in the S.O.P.. Prior to the Arbitration hearing, Mr. Sorenson circulated a memorandum explaining Sport Canada's position in greater detail. Since it may be helpful to future participants in similar proceedings, the memorandum has been made available as an Appendix to this Decision.

## **II. THE FACTS**

### **(1) Personal Background**

Eric Lamaze was born in Montreal on April 16, 1968. His life of 28 years already provides ample material for a compelling biography or full-length movie. The facts which follow are not recited for any voyeuristic purpose but to demonstrate the incredible strength of character and resilience of this remarkable young man.

He has no brothers or sisters and neither he nor his mother knows who his father is. Since his mother had problems with drug abuse and was unable to support him, he lived with his maternal grandmother in a poor area of Montreal for the first twelve years of his life. She was separated from his grandfather. While she appeared to treat him well, she was a heavy drinker and their only source of income was social assistance.

There was a great deal of illicit drug use in the area where Eric's grandmother lived and drugs were readily available "on the street". By the time he was eleven or twelve he had used marijuana and experimented with "magic mushrooms" and "LSD". Such drug use was common amongst his friends and was expected of those who "fit in". It occurred mostly on week-ends.

His mother would visit him occasionally on week-ends but some time after he turned six, she was incarcerated over a period of approximately four years. He would be taken to visit her on week-ends. After his mother was released, he lived with her for approximately two years (when he was twelve and thirteen years of age). During this time, she trafficked in drugs and, particularly, cocaine. His mother did not discourage his own use of cocaine during this period.

Eric was an energetic and, possibly, "hyperactive" child who took readily and successfully to sports. His mother had an acquaintance who owned a farm with horses where she ran an informal school. One way or another, he would get to the farm and started to ride horses until he became enamoured with the sport of equestrian riding. His riding began while he was still living with his grandmother. He learned quickly and the owner of the farm eventually provided him with a horse so that he could attend horse shows.

Throughout this period, he was also developing his skills in tennis. From the time he was six, Eric would "hang out" at a park near his grandmother's. One day, someone gave him a tennis racket and he began hitting balls. Again, he learned quickly and soon was playing doubles with older people. As he became increasingly proficient, he began to receive compliments and occasional tips. He was invited to join a tennis club in another area which competed in the province of Quebec and in the United States. By the time he was twelve, he had a sponsor and was competing seriously.

However, it soon became apparent that he would not be able to continue to compete in tennis if he wanted to pursue riding. At the age of thirteen, he quit tennis. The reaction of many of those closest to him at the time was traumatic for him. The response of his mother, grandmother, tennis coach and sponsors was overwhelmingly negative. They all felt that he was squandering a talent which would allow him to be successful in spite of his poor



performance at school.

Eric reacted to their rejection of him by becoming a "street kid". He stopped going to school, went to a lot of parties, took the odd job in order to live and, generally, was aimless in life. The only constant factor in his life was his commitment to riding and his visits to the farm for that purpose.

One of the top riders and teachers in the United States, eventually saw him ride and handle horses at the farm. When he learned of Eric's personal circumstances, he offered him a job at his stable in New Jersey. Eric accepted and was put to work at every available odd job: mucking out stalls, feeding the horses at five o'clock in the morning and at ten o'clock at night and acting as a "gopher". Most importantly, he had the opportunity to ride and to receive excellent instruction. He stayed one and one-half years before returning to Montreal with a view to pursuing a career in horseback riding.

Eric obtained a job at the stables in Emmingford, Quebec, where he worked for a year. When the stable closed, he took an apartment in Montreal with a friend. Still only fifteen or sixteen, he drifted into bad company and apart from odd jobs, partied most nights and slept most days. After about six months, he obtained a job at a large equestrian centre in Bromont, Quebec. However, he continued his night life while working during the day. Eric's exposure at Bromont led to a job offer for him to ride horses in the Stouffville area of Ontario. He accepted and moved to Toronto at the age of seventeen.

He began showing horses almost immediately, with considerable success. Still, he continued to travel to Montreal to socialize with his "high living friends". Still only seventeen, he began to live with a woman eleven years older. Through her, he began to socialize with many people whom he considered to be prominent in business, law and other professions. Drug use was frequent and his own use made him much more "sociable". He wanted to be "accepted" by these people.

Fortunately, Eric soon came to the recognition that it was impossible to continue this lifestyle and to pursue his riding career. He eventually broke up with his girlfriend and moved to the country where he began to live with his employer's family. This led to further employment with Hugh Graham, a Canadian Equestrian Team Member, in Schomberg. Mr. Graham became a mentor, who recognized and convinced Eric of his great future as a rider. He was also adamant in expecting behaviour which was beyond reproach. At the age of eighteen, Eric made a complete break with his past and did not take drugs again for ten years.

Those ten years were filled with professional and financial success and personal happiness.

**(2) The Infraction:**

With increasing success and recognition, Eric began to hear from old friends and acquaintances, often to congratulate him and wish him well. In late January or early February of 1996, a "friend" from the "high living" days, ten years earlier, called him by telephone. They chatted and the "friend" said that he would like to come and see Eric's stables. He invited the "friend" to come the following Sunday and he arrived at around 4:00 p.m. on February 4. Eric showed him his operation.

They then went into the office and talked about some of their wilder times together. After an hour or more, the "friend" took out some cocaine. Eric was shocked that this person was still using it since it had become so distant in Eric's own past. At first he declined but then "did" the cocaine. About three weeks later, the "friend" called again and said he would like to see Eric's home. He was invited over and after two or three hours they did cocaine once more. This time Eric was not shocked and had sensed where the visit would lead. This second occasion was on February 26.

After competing successfully in London, Eric was driving home on May 20, when he received a call from the "friend" on his cell phone. It was as though they had become "buddies" again. Eric told him of his success in London and they agreed to meet for dinner that evening in Toronto. They met at a restaurant and had fun at dinner. They decided to play some pool but first went out to his car and did a line of cocaine. The "friend" also gave Eric a small bag at that time. They returned to the restaurant shortly before 8 p.m. and played pool until approximately 11:00 p.m.

The next day, Eric's horses were being transported to Calgary for the Olympic Trials at Spruce Meadows, the following week. He checked the horses and the van left. He returned to his home, did some chores and then finished the small quantity of cocaine which his "friend" had given him the previous evening. He claims that these were the only four occasions on which he had taken any prohibited drugs over the ten year period since he had abandoned his previous lifestyle. He does not smoke and very seldom drinks alcohol. He was a credible witness and his evidence is reinforced by the observations of many persons who have been intimately acquainted with him during this period as well as by the medical opinions which were filed.

Eric has no explanation for his actions on these four occasions. He knew that he would be tested for drugs at Spruce Meadows but made absolutely no connection between the cocaine use and his riding. He cannot believe that he had been so weak on these occasions. He does not blame his "friend" although he would be much more wary of him in future. It never occurred to him that he was on a slippery slope which could lead him to slide back to his previous lifestyle. He accepts sole responsibility for his conduct and for the consequences he has suffered as a result.

**(3) The Aftermath:**

After his success in London and his excellent performance at Spruce Meadows, Eric

Lamaze was "on a roll" towards the Olympic Games in Atlanta. As planned, he travelled to Europe where he competed in Luxembourg and Holland. On June 24, he was in Germany when he first received news of the positive test. The result was confirmed when a second sample was tested the next day. He immediately left Germany and then returned to Canada.

The story was widely covered by the media and some reports related that the drugs had been taken during the competition at Spruce Meadows. Eric was bombarded by calls from journalists. He was also hearing of criticism within the equestrian world because of his failure to take responsibility for his conduct. This was particularly unfair since he was under instructions from his lawyer not to make any public statement. He was devastated by being cut off from his former teammates and by the refusal of the Canadian Equestrian Federation to meet with him so that he could explain the circumstances and apologize.

There are many aspects to sustaining a career in riding. Eric operates a stable in Schomberg, Ontario. He has about 15 clients who own about 25 horses that compete in various classes. He attends shows and instructs clients in riding and competing, for which he earns fees. He also earns fees by riding horses for owners at horse shows, which also generate prize money. Another source of income is buying and selling horses for his clients. Success in competition can generally increase the capital value of a horse. A further source of income is the conduct of riding clinics both in Canada and abroad. In addition to its adverse effects on all of these sources of income, Eric's suspension has resulted in loss of his funding from the Canadian government as an Olympic Team Member as well as from his former sponsor, Roots Canada.

A conservative estimate, which was not disputed at the hearing is that Eric has lost one-half million dollars in revenue from the suspension to date. The owners of many of the horses also have suffered losses. Some of the horses may also suffer adverse consequences to their performance from their absence from competition during the

suspension. In the event that he is not reinstated soon, Eric will have to declare bankruptcy, the horses will have to be sold and he will be left to attempt to renew his career from "scratch".

**(4) The Applicant's Response:**

Eric Lamaze offers no excuses. He accepts full responsibility for what he has done and he accepts the consequences which he has suffered. His entire attitude reflects a sense of disbelief that he could have been so naive not to recognize the seriousness of his misconduct. However, he does not exhibit any sense of self-pity or attitude of "why me?". He refused to adopt the suggestion that his "friend" should share any responsibility or that his childhood circumstances offered any "excuse".

His greatest shame is that he has "let down" others who had been so instrumental in his success and who are so important in his life. I found Eric Lamaze to be a direct, honest and sincere witness and person.

**III. THE POLICY, REINSTATEMENT AND CRITERIA**

**(1) The Policy and Reinstatement:**

The Preamble to the *Canadian Policy on Penalties for Doping in Sport* states:

The objective of this policy is to provide a consistent and effective response to the use of banned drugs and practices in Canadian sport so as to deter those who might engage in doping and protect those who commit themselves to the practice of sport based on fair play.

A doping infraction occurs when an athlete tests positive for a substance which is banned by the International Olympic Committee. Where that occurs as a first offence, the Policy provides for a penalty of a minimum of 4 years ineligibility. However, such suspensions are

subject to the provisions for reinstatement contained in section 11 of the S.O.P.

Counsel for the Applicant emphasized that the entire doping control regime is based on the objective of encouraging "fair play". This is clearly reflected in the Dubin Report and the language of the Policy itself. In other words, the purpose is to deter athletes from attempting to gain an unfair competitive advantage through the use of banned substances or other artificial performance-enhancing measures.

Since that is the case, it is argued, the Policy really has no application to Eric Lamaze since he did not use cocaine to enhance his performance. Counsel argued that this conclusion is reinforced by the evidence that cocaine might enhance performance in some other athletic events such as, possibly, a short swimming race. However, it would not be feasible for the equestrian events which occur over a period of days. Moreover, the qualities of a cocaine "high" would be counterproductive to the calm, analytical and disciplined qualities required for such events.

In other words, Eric's use was strictly recreational and the doping controls are not meant to apply to recreational, albeit illicit, drug use. Counsel for the Applicant may pursue this issue and others in relation to the legal and constitutional challenges which are outstanding.

The Preamble to the section 10 Appeal Process states:

Since doping is defined as the deliberate or inadvertent use, by an athlete, of a substance or method banned by the International Olympic Committee (IOC) protests and appeals are limited to ... the identity, security, integrity and validity of the test sample and/or test result. Questions of inadvertence or intention in the use of a banned substance are only relevant under section 11 dealing with reinstatement.

In other words, once a banned substance is found in the athlete's body, there is an infraction and automatic suspension. How and why it got there is only relevant to whether

there should be a reinstatement.

This appears to be a reasonable and practical approach. An immediate suspension is required to protect all other competitors but there is an avenue for reinstatement if the penalty is excessive. The applicant for reinstatement must establish that "exceptional circumstances" exist which satisfy the arbitrator that the penalty is excessive.

The reinstatement process contemplates that the individual circumstances of the athlete be considered but the arbitrator must also be conscious of the responsibility to respect and reflect the integrity of the Policy. The Policy of a four year minimum suspension would become meaningless if reinstatement were to become almost "automatic". In this respect, the earlier the reinstatement is allowed the more compelling should be the circumstances supporting reinstatement.

The Preamble to section 11 states:

It is the intent of the criteria set out in section 11.2.3 that the test of exceptional circumstances be restrictive in both interpretation and scope.

The Applicant is seeking reinstatement after an eight-month suspension. This is one-sixth of the minimum four-year suspension which he received. To grant reinstatement after such a short period of time requires *highly* exception circumstances. Otherwise, there is danger of encouraging a perception that the Policy is not taken seriously. The criteria specified under the S.O.P. are addressed under heading 3.

**(2) The CEF Position:**

The Canadian Equestrian Federation is the National Sport Governing Body responsible for the suspension of Eric Lamaze. It was also responsible for submitting the

reinstatement application to the Canadian Centre for Ethics in Sport.

The CEF participated in the reinstatement hearing and expressed its support for the Policy. At the same time, it supported reinstatement after eight months subject to certain conditions. These include a public admission by Eric that he had taken cocaine and his agreement to represent the CEF as a public advocate for drug-free sport. Other conditions such as professional assessment and treatment for any drug addiction problems have already been met.

The CEF had decided as early as October 4, 1996, that Eric should be reinstated. However, by a decision of the Executive Committee at the Annual General Meeting, the appropriate length of suspension was considered to be 18 months. Subsequently, the Executive Committee received further information with respect to this matter and engaged in lengthy discussion in national teleconference calls on November 20 and 22, 1996. After re-evaluation of its earlier information together with the further information and submissions received from Eric's counsel, the Executive Committee adopted the position that an eight-month suspension (with conditions) would be the appropriate disposition.

A National Sport Governing Body may be perceived as having a bias in favour of returning its top athletes to competition at the earliest opportunity. However, it also has a strong vested interest in being seen to take doping infractions seriously in order to maintain the integrity of the sport in question. The CEF reached its position in relation to Eric's reinstatement only after careful and responsible deliberation and discussion. Its position is worthy of respectful consideration.

**(3) The Criteria:**

**(a) Age:**



Eric Lamaze is 28 years of age but has lived a number of different lives during the short span of his life to date. His most recent "life" encompasses the ten years prior to his relapse into cocaine use. These ten years were characterized by self-discipline, hard work and dedication to his career, all of which led to an abstemious life-style.

It is quite remarkable that, at his young age and with his background, he had been able to achieve the success which he enjoyed. Riding is an expensive sport to pursue because of the cost of horses, stables, lessons and other factors. Eric was able to overcome this obstacle through love of the sport and innate talent as well as hard work. No doubt, his attractive personality also influenced mentors and others to go out of their way to assist him at various times.

It may be somewhat ironical that he should be so mature and decisive in relation to his career development and so naive and immature in relation to his relapse into cocaine use. He made the decision to quit tennis in order to concentrate on horse riding at the age of 13. A few months later, he made the decision to accept a job, which was something of a tutelage, in New Jersey where he stayed until he was about 15. At the age of 18, he decided to give up a lifestyle involving a 28-year old girlfriend, partying with what he viewed to be "high society" and frequent cocaine use. At the age of 22, he entered into a business agreement to operate a boarding stable providing training and riding instructions. At the age of 24, he became a member of the Canadian Equestrian Team.

Although Eric had been using "soft" drugs before he was a teen-ager and cocaine was readily available from the time he was 13, he never acquired a physical addiction. Drug use was simply a part of the social life of his school friends when he was younger and his girlfriend's social network when he was older. He had no problem in ignoring drugs while he was in New Jersey. Nor did he have any problem with complete abstinence from the time that he began to work for Hugh Graham at the age of 18 and for the next ten years.

Why, then, does a mature young man at the age of 28, who has been so decisive, dedicated and successful in his career and who does not have a drug addiction or even a dependency, react in such a passive, naive and foolish manner after encountering a "friend" from his earlier life? The answer appears to be that while he may have been exceptionally mature in many respects, his personal development in relation to drug use remained very immature. The expert evidence attempts to explain this phenomenon.

Dr. Howard D. Cappell is a psychologist and Executive Director of the Ontario Mental Health Foundation. He previously held a variety of research, clinical and managerial positions with the Addiction Research Foundation. He is a Professor of Pharmacology and Psychology at the University of Toronto and has a number of scholarly publication. In his view:

... it is important to understand that even occasional nondependent or nonproblematic cocaine use occurs in a context and is significantly influenced by social and environmental factors ... Cocaine was simply a part of the landscape in Eric's youth, and its use was not seen as a "big deal" by him or his friends. It was not by choice that he was exposed to a world of drug trafficking and use at an impressionable age, when habits and beliefs about cocaine that will persist for a long time are learned from others ... It is widely agreed among experts that even the distant memory of the gratifying effects of a drug may be sufficient in some individuals when exposed to stimuli (including people) that reinstate prior circumstances of drug use, to trigger a relapse after a period of abstinence. The psychological processes that lead to a slip or relapse may be subtle to the point where the individual does not recognize what is happening at the time. Eric's use of cocaine was part of a learned social expectation in the relationship and it began and ended with the social contact that brought cocaine back into his environment.

In other words, it appears as though Eric was a mature 28 years of age in relation to his career and his social network developed over the previous ten years. However, his attitude towards cocaine use with his "friend" was mired in his lifestyle prior to the age of 18 based on the foundation of his childhood friends and his mother's influence.

Dr. Adrian Hanick is a psychiatrist who has an academic and clinical interest in psychosomatic medicine which involves the interplay of physical and emotional factors and often involves the assessment of pain, cognitive dysfunction and post-traumatic status. He has had occasion to diagnose, manage and test individuals who have misused drugs, including competitive athletes. Dr. Hanick observed that when Eric was informed of the positive test results, he simply could "not connect" his earlier ingestion of cocaine with those results:

... indeed, he had not even initially recalled his earlier ingestion of cocaine. Mr. Lamaze had never thought of drugs in the context of competition and had only used cocaine socially and, in turn, he could not see any connection at all.

This observation is strongly supported by the knowledge of Mr. Lamaze, when he ingested cocaine on the last occasion, that he would be tested at Spruce Meadows approximately two weeks later. He clearly made no connection.

Dr. Hanick also commented on Eric's attitude towards cocaine which allowed him to relapse in spite of his maturity in so many other respects:

The psychoanalytic literature suggests that such behaviour represents a lacuna within the usual and otherwise moral behaviour of an individual; given Mr. Lamaze's past experience and his upbringing, the use of cocaine had not been seen to be morally prohibited ... [His] pattern of cocaine ingestion rests on previous life experiences and the attitudes engendered by his mother, but his consumption does not speak to any personality disorder or a tendency to any moral wrongdoing.

At the hearing itself, Eric was reluctant to adopt these explanations for his behaviour since they might be interpreted as "excuses" and seen as not taking responsibility. His attitude was: "I did it. It was wrong. It was stupid. I have to pay the consequences and I have already paid heavily. I now want to resume my career and try to repay those who have helped me so much." He did concede that the professional counselling which he is receiving has helped him to think of things which he had forgotten and to understand things

better.

The criterion of "Age" has been discussed here in the broader context of "maturity". This discussion is also relevant to the third criterion, namely "Circumstances Surrounding the Infraction, Including any Factors That May Have Caused or Contributed to the Applicant's Diminished Capacity". However, I find it easier to understand his behaviour as "immaturity" rather than as "diminished capacity" which implies some compulsion or inability to resist. In other words, Eric was a responsible and mature 28 year old in relation to his career and life of the previous ten years but he was a reckless and immature teenager in relation to his use of cocaine.

In the unique circumstances of this case, I agree with Eric's counsel that he should be treated as a "youthful first offender". In the context of criminal sentencing, this usually means that the rehabilitation objective should take priority over any other, such as general deterrence or denunciation. In this case, it means that the circumstances of his immaturity in relation to cocaine use should be treated as a significant mitigating factor.

**(b) Remorse:**

There simply can be no question of the extent and sincerity of Eric's remorse. As discussed previously, it does not stem from self-pity but from how he has "let down" others: his girlfriend; his teammates; his business associates; his students; his fans; his friends; and his country. However, it is not a "wallowing" remorse but a positive incentive to "repay" what he feels that he owes to all of them. He had taken the initiative to send a letter of apology to his teammates, he wishes to apologize publicly and he is prepared to act as a public advocate against drug abuse in sport and in life. Eric's entire acceptance of responsibility and remorseful attitude is a strong mitigating factor.

**(c) Circumstances Surrounding the Infraction, Including Any Factors That May Have Caused or Contributed to the Applicant's Diminished Capacity:**

The most significant factor with respect to this criterion is that the cocaine use in question was not for the purpose of competitive enhancement. In other words, it was not done to cheat. Indeed, the evidence strongly indicated that cocaine would be counterproductive to performance in a "precision event" as opposed to one where "a high level of physical aggressiveness" might be required. This view was reinforced by the comments of Michel Vaillancourt:

To my knowledge, as I have been involved in this support for approximately 30 years, from the national to the international scene, drugs have never been used by our human athlete in order to enhance their performance in any way, shape or form. I assume that this is one of the reasons why riders around the world never get tested for forbidden substances.

Mr. Vaillancourt, who is National Coach of the Canadian Show Jumping Team, pointed out that, throughout the world, such drug testing only occurs when it is demanded by the Olympic associations.

As discussed above, the doping control policy and its foundation in the Dubin Report characterizes doping as cheating and seeks to establish the principle of "fair play" by eliminating such cheating. Nevertheless, cocaine is a potentially performance-enhancing drug for some sports. That is why it is on the I.O.C. list of banned substances. Positive testing can bring disgrace upon a sport and "tar" other athletes even though the athlete in question did not intend to cheat.

Moreover, the use of cocaine is a criminal offence. Even though the doping control regime relates to performance enhancement, the reinstatement process encompasses broader considerations related, more generally, to the "character" of the applicant. Quite apart from these reinstatement proceedings it would also appear to be open to a National Sports Governing Body to impose reasonable standards of good character for its athletes.

Having regard to all of these considerations as well as the circumstances of the four occasions when cocaine was used and the situational "immaturity" of Eric Lamaze, the Circumstances Surrounding the Infraction constitute another strong mitigating factor. The absence of any intent to cheat is a very strong consideration since it reflects directly on the integrity of the athlete and indirectly on the integrity of the sport and on sports, more generally. The circumstances under which the cocaine was obtained and consumed fall within a very low range on the scale of criminal culpability.

**(d) The Applicant's Experience in Sport:**

At the time of the infraction in question, the Applicant was an experienced rider and could be described as a "rising star". However, the unique nature of the infraction, related as it was to his previous social background, render this criterion insignificant to the current application.

**(e) The Applicant's Favourable Prospects for Rehabilitation:**

The evidence is overwhelmingly positive in relation to this criterion. Perhaps the most striking evidence in this respect is the attitude of Eric, himself. Reference already has been made to his acceptance of responsibility and the consequences as well as his refusal to make excuses or blame others. Such an attitude is an excellent starting point for avoiding further problems in future.

The medical evidence characterizes the four incidents as a "slip" which will have a positive influence on him in future. According to Dr. Hanick:

... this process of repeated embarrassment has served the purpose of now quite fully deterring Mr. Lamaze from even the social ingestion of any illicit agent. Whereas it is seen that some further counselling may be of benefit, it is already evident that the dire and significant and perhaps overwhelming

consequences of his public exposure and his suspension have had the strong effect of moral instruction.

He considers Eric's prospects for a "full rehabilitation" to be "excellent". This optimistic prognosis was shared by dozens of significant letters from persons with a variety of backgrounds who have come to know him very well in a variety of capacities over the past ten years.

I also agree with the suggestion that any further period of suspension will do nothing to assist in his rehabilitation and would probably make it more difficult. However, I do not accept the dire warnings of Counsel that a prolongation of the suspension could lead to personal catastrophe. In my view, the love of riding and strength of character which allowed Eric Lamaze to achieve what he has in the face of formidable barriers, would also cause him to rebuild his career in spite of personal bankruptcy and the collapse of everything which he had created. To suggest that he would simply "give up" and return to a lifestyle of drug use, seriously undervalues the strength of character which he has demonstrated in his life.

In any event, the circumstances weigh very heavily in favour of reinstatement under this criterion.

**(f) The Applicant's Prior and Post-Infraction Conduct:**

The evidence indicates that the Applicant's Prior-Infraction Conduct was impeccable. His lifestyle was to retire early and be up at 6:00 a.m.. He commenced and finished each working day with a physical workout. He was loved by his students and their parents. Some parents had no qualms about letting their daughters live in his house for periods of time while they took lessons from him. He does not smoke and seldom drinks. He was an excellent performer and ambassador for the sport and for Canada. He was in demand to provide clinics both in Canada and abroad and he was developing a reputation as a successful businessman who was honest and worthy of trust.

His Post-Infraction Conduct was also commendable. He took full responsibility for his conduct and attempted to meet with the CEF immediately to apologize and to offer to do whatever he could to help to rectify the situation. He was frustrated by the refusal of the CEF to meet with him but simply persisted through his lawyer. He has never attempted to deny or "cover up" the true facts and he has experienced the embarrassment of revealing intimate personal details of his earlier life to strangers. He took the initiative of writing to his former teammates to explain some of those details and to apologize for letting them down. He has not spoken out publicly on the advice of his lawyer but is now able to do so and wants to be a public advocate against drug abuse.

The Applicant rates very highly in relation to this criterion as well.

**(g) The Applicant's Contribution to (the) Sport:**

A great deal of documentary evidence was submitted to illustrate the Applicant's Contribution to the Sport, as a performer, trainer, teacher and ambassador. I can only provide a sampling of this evidence.

An eloquent and comprehensive testimonial was provided by Mr. Frank Watt, who has had lengthy interest and experience in equestrian sport. He stated:

... the absence of Eric Lamaze is a major injury to the health of showjumping in Canada. No one else in the last three or four years has so galvanized public interest in the sport as this young rising star, who quickly established himself as one of our top two or three riders and the brightest hope for the future of the sport in Canada.

... I believe I know all of the riders who have made the C.E.T. since 1970 and most of those who have been short-listed. No one else in the past quarter of a century has shown more brilliant natural aptitude for the business and sport of showjumping and no rider promises to contribute more to the



excellence of the sport. He has already proved by his achievements to date - his winning of a number of the premier competitions in Canada, his outstanding performance as a Nations Cup rider for Canada, his making and qualifying of two quality horses - that Canadian showjumping will be enriched at the highest level by his presence and participation.

Mr. Watt keeps horses with Eric Lamaze and has had extensive opportunities to observe and assess him as being an outstanding athlete and person.

Others have commented on the enthusiasm which he brings to the sport and the excitement which his performance generates. He is appreciated by media journalists for his understanding of their needs and his willingness to co-operate with them.

He brings the same enthusiasm and expertise to his teaching. Both students and their parents speak of his positive approach. He has been instrumental in building self-confidence in his pupils, partly through their confidences in him that he will not push them beyond their limits at any particular stage of their development. At the same time, he is able to inspire and challenge students in an "upbeat" atmosphere of enthusiasm and cheerfulness.

The Captain of the Canadian Equestrian Team, and one of Canada's great athletes, Ian Miller, described Eric's international career as being by any measure, to date, "outstanding". He spoke of the respect and friendship of Eric's fellow riders and trainers and added:

During the past two years I have become aware of the leadership qualities developing in Eric.

The National Coach of the Canadian Show Jumping Team also spoke of Eric's leadership qualities.

There is also evidence that Eric goes out of his way to encourage younger riders and

grooms. He is proud of what he has achieved but he recognizes that he has had a lot of encouragement and assistance along the way. He believes that his success, in spite of potentially formidable obstacles could serve as an inspiration to others and he likes to encourage them to "follow your dream".

During the course of his short career, the Applicant's contribution to his sport has been outstanding.

**(h) Co-Operation with Investigating Bodies:**

As indicated by the comments under heading (f), the Applicant has always co-operated fully with the authorities.

**(i) Length of Suspension Served at Time of Hearing:**

It has already been noted that Eric had served only seven months of a four year suspension at the time of the hearing. The proposal of the CEF and the Applicant is that he be reinstated after eight months or one-sixth of the four years. This would amount to a very significant deviation from the four year minimum established by the policy. The shortness of the suspension served is a factor which works against the Applicant.

However, it is appropriate to take into account under this criterion, the broader consideration of the "severity of the penalty". In other words, what has been the significance of the suspension to date of seven months? Firstly, the suspension has prevented Eric from participating in the Olympic Games, the pinnacle ambition for any amateur athlete. Secondly, the suspension encompasses not only competition by the athlete but also precludes his attendance at competitions as a trainer or teacher, an important source of Eric's livelihood. Thirdly, the horses must compete. A long period without competition can detract from their effectiveness and they are also assets which are

not generating revenue. The point has been reached where two fine horses, Cagney and Rio Grande, will have to return to competition with Eric or be sold. Fourthly, the Applicant has already suffered the bulk of the public humiliation and professional stigmatization which these matters bring. This aspect of the "punishment" tends to be suffered most heavily at the "front end" of public knowledge of the offence. Finally, there were a variety of other sources of revenue which were lost: cancelled sponsorships; potential new sponsorships; teaching clinics; prize money; buying and selling horses; and others. As mentioned previously, a conservative estimate of the Applicant's financial loss during the seven month suspension to date is one-half million dollars.

In these circumstances, the seven month suspension takes on another dimension which renders it not unduly short. When all of the unique circumstances of this case are taken into account, particularly the absence of any intent to cheat or any actual competitive advantage, immediate reinstatement would not detract from the integrity of the doping control policy.

**(j) Additional Factors:**

Over and above the criteria discussed above, the letters of support from such a wide variety of sources, representing diverse walks of life, paint a vivid picture of an honest, caring, dedicated, hard-working responsible, positive, talented and likeable person. The same basic qualities are described repeatedly, although in different contexts and in different ways, by the many persons who wrote letters of support.

Again, to provide merely a sample, Roots Canada Ltd. sponsored Eric for two years prior to the positive test results. The company had every reason to be extremely upset about what had happened. Nevertheless, the partners, Don Green and Michael Budman wrote as follows:

We were in the midst of creating a very large campaign with

Eric and his horse Cagney, which was to be displayed throughout North American stores, wishing he and the Canadian Team good luck in the forthcoming Atlanta Olympics. Then disaster struck and we were forced to cancel everything.

It was extremely unfortunate because during our association with Eric he was an excellent representative for Roots. He was a tremendous competitor, an extremely talented rider and very co-operative in helping to promote Roots. Eric would go out of his way to make sure that we, as his sponsors, got more than our money's worth. He has always been punctual, professional and a tireless enthusiast towards his sport of show jumping and life in general. For all of these reasons, and for the love and respect that Eric has towards his fans, we were always very proud to be his sponsor.

The letter goes on to state how "happy and touched" they were to receive a personal apology from him "showing a profound sense of remorse". They left open the possibility of a renewed relationship if Eric were to be reinstated.

I am of the view that many of the qualities referred to above will make Eric Lamaze a successful advocate against the non-medical use of drugs. The conditions which I am imposing on Eric's reinstatement can be considered to be "Additional Factors" which are taken into account. In other words, these conditions weigh in favour of immediate reinstatement in spite of the short period of suspension already served.

#### **IV. CONCLUSION AND ORDER**

There can be no doubt that Eric Lamaze has satisfied the necessity of establishing highly exceptional circumstances which warrant reinstatement. In these unusual circumstances, the minimum four-year penalty prescribed by the policy is clearly excessive. Moreover, I see no purpose in delaying reinstatement to February 24, as proposed by the CEF and agreed to by the Applicant. The circumstances in this case are so extraordinary that immediate reinstatement cannot be perceived as detracting from the basic objective of the doping control policy.

**The application of Eric Lamaze for reinstatement is granted effective the date of this decision subject to the following conditions:**

- (a) For a period of three years commencing on June 24, 1997, Eric Lamaze will devote himself publicly as an advocate to promote drug-free sport and drug-free lifestyle;**
- (b) He will contribute an average of one day per month for this purpose;**
- (c) Prior to March 24, 1997, and the next two anniversaries of that date, the CEF will provide Eric Lamaze with a program of activities for the year commencing on the next June 24;**
- (d) Such programs shall be developed by the CEF in consultation with the Canadian Centre for Ethics in Sport (CCES) and Eric Lamaze: Both the CEF and the CCES shall designate a specific individual for this purpose and they shall deal directly with each other and with Eric; The CEF representative will be responsible for documenting all arrangements and activities. Shortly after June 24, each year, the CEF representative will provide the Adjudicator with a copy of the program for the forthcoming year and a report of the activities of the previous year;**
- (e) The programs shall be flexible in permitting variation by mutual agreement;**
- (f) I will remain seized of this matter and will be available by telephone conference call to Eric Lamaze and to both representatives in the event of any difficulty in implementing this order.**

In conclusion, I wish to thank: Mr. Robert Morrow for his wise counsel and expeditious conduct of the hearing; Mr. Timothy Danson for his painstaking preparation and documentation; Ms. Anne Sone for her clear and concise articulation of the CEF position; Mr. Ole Sorenson and Mr. Victor Lachance for their submissions; and Ms. Hillary Findlay

for making the logistical arrangements and acting as liaison with the parties.

Finally, I wish Eric Lamaze every success in recovering from this traumatic setback to his career and, more importantly, to his life. I believe him when he says that his main objective is to try to repay those who have helped him in the past and who have stood by him throughout this ordeal. He is fortunate to have their trust and support but he should also realize that he had earned their respect in the ten years prior to his unfortunate regression. I also believe that he will become a dedicated and effective advocate for fair-play in sport and for self-reliance in life.

January 31, 1997

"Ed Ratushny"

Ed Ratushny, Q.C.

Adjudicator