

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA**

**IN THE MATTER OF THE CANADIAN ANTI-DOPING PROGRAM**

**AND IN THE MATTER OF AN ANTI-DOPING RULE VIOLATION BY SPENCER ZIMMERMAN-CRYER  
ASSERTED BY THE CANADIAN CENTRE FOR ETHICS IN SPORT**

No.: SDRCC DT 10-0121  
(Doping Tribunal)

Canadian Centre for Ethics in Sport

Canadian Interuniversity Sport

**-and-**

Spencer Zimmerman-Cryer (Athlete)

**-and-**

Government of Canada (Observer)

World Anti-Doping Agency (Observer)

**BEFORE:** Ross C. Dumoulin

**APPEARANCES:**

For the Athlete:

Spencer Zimmerman-Cryer

For the Canadian Centre for Ethics in Sport:

David Lech

**DECISION**

August 20, 2010

I was selected by the parties pursuant to subsection 6.8 (b) (i) of the *Canadian Sport Dispute Resolution Code (2009) (Code)* and appointed as arbitrator to sit as Doping Tribunal by the Sport Dispute Resolution Centre of Canada (SDRCC) to hear and determine the present matter. My appointment was confirmed by the SDRCC pursuant to subsection 6.9 (a) of the *Code*.

This is a decision with reasons issued pursuant to subsection 6.21 (c) of the *Code* and Rule 7.88, paragraph c) of the *Canadian Anti-Doping Program (2009) (CADP)*.

On July 15, 2010, a preliminary meeting with the parties was held by teleconference pursuant to section 7.7 of the *Code* and Rule 7.94 of the CADP.

On August 11, 2010, an arbitration hearing by teleconference was held pursuant to subsection 7.9 (b) of the *Code*.

On August 16, 2010, this tribunal rendered the following decision pursuant to subsection 6.21 (c) of the *Code* and Rule 7.88, paragraph b) of the CADP:

It is hereby ordered that the sanction for the anti-doping rule violation of use of a prohibited substance admitted by the Athlete be one (1) year of ineligibility, to be served commencing on March 30, 2010 and ending on March 30, 2011.

It is also confirmed that, in accordance with CADP Rule 7.22, within 20 days of the date of the determination of the rule violation, the CCES shall publicly report the disposition of this matter and that, in accordance with

subsection 14.2.2 of the WADA Code, this report will include the sport, the anti-doping rule violated, the name of the Athlete, the prohibited substance involved and the sanction imposed. The CCES may also include in its report the date of the violation and a brief statement of how the sanction was determined.

## **THE FACTS**

The Canadian Centre for Ethics in Sport (CCES) is an independent, non-profit organization that promotes ethical conduct in all aspects of sport in Canada. The CCES also maintains and carries out the Canadian Anti-Doping Program (CADP), including providing anti-doping services to national sport organizations and their members.

As Canada's national anti-doping organization, the CCES is a signatory to the *World Anti-Doping Code* (WADA Code) and its mandatory international standards and ensures that the CADP is consistent with the World Anti-Doping Program. The CCES has implemented the WADA Code and its mandatory international standards through the CADP, the domestic rules which govern this proceeding.

The Athlete, Spencer Zimmerman-Cryer, was at all relevant times participating as an athlete in Canadian Interuniversity Sport (CIS) activities. According to Rules 1.3, 1.7, 1.8 and 1.13 of the CADP, its provisions apply to all members and participants in the activities of sports organizations adopting it. The CADP was issued for adoption by Canadian sport organizations on October 15, 2008, to be operational on January 1, 2009.

The CIS adopted the CADP on December 2, 2008. Therefore, as a student- athlete who was a member of a CIS institution and a participant in the football activities of the CIS, Mr. Zimmerman-Cryer is subject to the Rules of the CADP.

The Athlete is a third-year student at the University of Waterloo, majoring in Economics and Business. In a letter of explanation dated April 16, 2010 addressed to Mr. Tom Huisman, Director, Operations and Development, for the CIS, Mr. Zimmerman-Cryer relates the following: his high school football coach had showed him how to use football to become a better person. When he met the football coaching staff at the University of Waterloo, they asked him questions about what kind of a person he was and what he valued in life. They spoke to him about family and brotherhood, two things he holds close to his heart. In deciding to play football for Waterloo, the Athlete gained brothers in his teammates and considers himself truly blessed to have had four father figures in the four U. of W. football coaches. He benefited from their vast amount of knowledge. He learned to dedicate himself to his training and become a student of the game. He has been a three-year starter for the team. His dedication to the sport spilled over to his grades and, in second year, he achieved an average of 80%. As he put it, the work ethic, the drive and the determination he developed from his passion for football "translated" into the classroom.

Mr. Zimmerman-Cryer's letter goes on to say that in late February of 2010, he lost his grandmother, who was the biggest hero in his life. He returned to school a week after the funeral. At that time, his roommate returned from a professional football evaluation camp in Toronto. They

talked about the players in the camp in positions not known for their strength achieving 35 repetitions of 225 pounds on the bench-press. Mr. Zimmerman Cryer was disappointed in only being able to complete 18 repetitions and his position of centre was one known for strength. He and his roommate heard rumours of many players at those camps taking prohibited substances to get stronger and that's when they made "the worst decision of our [their] lives". They both obtained one bottle of a banned substance. This is how the Athlete describes the use of the banned substance:

We took this substance for three days and stopped after hearing rumours of people on our team being in trouble with the law on our team. Right then and there I came to [the] quickest decision of my life that taking this substance was not something I wanted to be involved in my life.

The Athlete returned to school on Monday when the football team got together and the captains conveyed the message that there were some people on the team who were getting into trouble and hurting the team and that those people needed to stop doing that. Mr. Zimmerman-Cryer and his roommate decided that morning to disclose to one of the coaches that they had taken a banned substance for three days. They knew that he would help them get their decision-making "back on the right track". The coach took them over to the Athletic Director's office and notified him of their decision. Then, the coach took them over to the University's counseling services where they met with a counselor. The counseling has been very beneficial to him and he continues to attend counseling sessions on a regular basis. The next step was to meet with the provost when, again, they were counseled on the poor decision they had made.

The Athlete and his roommate received a CCES document entitled "Admission of a Violation". The document states in part that the Athlete voluntarily admits to the anti-doping rule violation of "Use or Attempted Use". Where the document asks the athlete to indicate the prohibited substances that apply and any additional details he or she would like to provide, Mr. Zimmerman-Cryer wrote "T-bol orally, took substance for three days then stopped". The document also states that the Athlete confirms that he or she has received independent legal advice regarding the admission or that, alternatively, he or she has declined to receive such advice despite having ample opportunity to acquire it. The document was dated March 30, 2010 at Waterloo and signed by the Athlete.

Mr. Zimmerman-Cryer also admitted at the arbitration hearing that he took the said substance for a three-day period and that he made a terrible mistake. He testified that three days after he signed the admission document, the entire University of Waterloo football team was tested. He asked his coach if he could also be tested, the coach asked a CCES representative and he was not allowed to be tested. He wanted to be tested because he wasn't sure of what he had taken, although he believed it to be a performance-enhancing drug.

Mr. Zimmerman-Cryer also informed his mother and family about what he had done. This was extremely hard for him, but the results ended up being far better than what he had expected.

The Athlete indicates in his letter to Mr. Huisman that he wants to ensure that no one else makes the same poor decision he has made. He suggests as a method to educate athletes on anti-doping rules an oral presentation where he would share the mistake he made and the way it has changed his life. He is available to educate the youth in high school about making smart and safe decisions and about the consequences of poor ones.

In his letter, Mr. Zimmerman-Cryer expresses that he is sincerely sorry for the decision he made and that the stress, embarrassment and shame it has brought to his family, coaches, teammates, school and the CIS is something that he feels terribly about. He adds that this decision is a reflection on himself and not on anyone else in his life and that he comes from a loving and supporting family which has instilled qualities and values that he hopes to display and teach to his children. Positive role models from his coaching staff and teammates surround him. He made a bad decision in a "lapse of judgment" and he takes "full responsibility" for it. The Athlete observes that what he loves most about football is the work ethic, determination and perseverance that he has learned.

On April 23, 2010, the CCES issued a notice to Mr. Zimmerman-Cryer pursuant to Rule 7.66 of the Doping Violations and Consequences Rules of the CADP. The notice, addressed to Mr. Tom Huisman, Director, Operations and Development, CIS, states that the Athlete admitted to the use of a prohibited substance on March 29, 2010 in advance of notice of sample collection. The said notice also states that use or attempted use by an athlete of a prohibited substance is an anti-doping rule violation.

The notice from the CCES specifies the following:

Mr. Zimmerman-Cryer has met the standard required to reduce the sanction as outlined in Rule 7.47 of the CADP (Admission of an Anti-Doping Violation) and the CCES proposes that the sanction for this violation be a one (1) year period of ineligibility in accordance with Rules 7.28 to 7.30; 7.38 and 7.47 of the CADP.

The Athlete testified at the arbitration hearing that he will be writing his LSAT for admission to law school in October. He is presently continuing his studies at the University of Waterloo. There will be no football at the University this season. Mr. Zimmerman-Cryer sought to transfer to other universities. He testified that he was told that if his name were released, it would hurt his chances to be accepted in a university Masters program in Economics or in a law school. He met in person with the football coach and athletic director of another university and later received a call from the coach who said that the athletic director had told him that his admission to the university had to be declined due to "negative publicity". He also had a telephone call with his football coach and the head coach of another university and no one got back to him.

At the arbitration hearing, the Athlete and Mr. David Lech, on behalf of the CCES, came to an agreement that the sanction to be imposed upon the Athlete would begin on March 30, 2010, providing the Athlete signed a Voluntary Provisional Suspension which he had, up to that point, declined to sign. The Athlete undertook to sign a Voluntary Provisional Suspension document to be provided by the CCES. After the conclusion of the hearing, on August 11, 2010, a document bearing that date entitled "Voluntary Provisional Suspension" from the CCES was provided to the Athlete. On August 16, 2010, five days after the arbitration



hearing, the Athlete signed the document and conveyed it to the CCES via the SDRCC. The main text of the said suspension document reads as follows:

Pursuant to CADP Rule 7.15 and further to prior discussions with CCES regarding not competing subsequent to my admission and the effective date of any sanction that may be imposed or accepted I, Spencer Zimmerman-Cryer, agree to voluntarily accept the Provisional Suspension imposed by the CCES with my consent. The voluntary Provisional Suspension commenced on March 30, 2010, the date of my formal admission to the CCES regarding my use of a prohibited substance. This document confirms the substance of my earlier agreement with CCES.

I confirm that I have received independent legal advice regarding the acceptance of this voluntary Provisional Suspension, or that I have declined to receive independent legal advice despite having had ample time to obtain such legal advice.

During the period of voluntary Provisional Suspension I will refrain from competing at or participating in any competitions that are subject to the Canadian anti-doping rules described in the CADP. So long as I strictly respect and comply with the terms of this voluntary Provisional Suspension, I intend to rely on and seek the benefit of CADP Rule 7.15 whereby I will receive a credit for such period of voluntary Provisional Suspension against any period of ineligibility that may ultimately be imposed by the Doping Tribunal or otherwise accepted by me.

The Athlete and Mr. Lech, on behalf of the CCES, also agreed at the hearing that the Athlete would receive a period of ineligibility that would be further reduced from the sanction of one year of ineligibility proposed by the CCES in its notification to the Athlete of April 23, 2010,

providing the athlete agreed to fulfill certain conditions which would potentially entitle him to such further reduction under Rule 7.46 of the CADP. However, upon further reflection, the Athlete later had a change of heart and indicated in writing two days after the arbitration hearing that he could not sign a document provided by the CCES, which accurately reflected the agreement between the parties, until this Tribunal had rendered its ruling. Therefore, the conditions for the agreement between the parties were not fulfilled and no settlement was reached pertaining to the length of the period of ineligibility.

## **THE POSITIONS OF THE PARTIES**

### **The Athlete:**

On the subject of the sanction, Mr. Zimmerman-Cryer stated that the sanction of one year of ineligibility proposed by the CCES and the further potential reduction of this period of ineligibility which the parties had discussed at the hearing both equal one year of football that he will be missing which he accepts as a "fair penalty".

The Athlete raised another issue in his submissions. He referred to the third sentence of paragraph 2 of the CCES Policy on Public Disclosure of Anti-Doping Rule Violations (July 2005). The said provision states that the CCES will issue a media release within 20 days of determination of an anti-doping rule violation which will normally name the athlete whenever the suspension is less than two years, "unless there are compelling circumstances not to".

Mr. Zimmerman-Cryer argued that the release of his name by the CCES after the arbitration hearing will have unintended consequences. One of the potential consequences perceived by the Athlete no longer applies since he has decided to not fulfill the conditions which may have entitled him to a further reduction of the sanction pursuant to Rule 7.46 of the CADP. Therefore, this Tribunal will not deal with that particular consequence advanced by the Athlete.

The other consequence advanced by the Athlete which, he submitted, constitutes a "compelling circumstance" under the CCES public disclosure policy pertains to his future professional life. The reason he went to university was to become a lawyer. It is his view that the public disclosure of his name would definitely hurt his chances of getting into a prestigious law school. A young person should not have his future irreparably damaged for a three-day mistake, one which he tried to rectify by disclosing it and seeking help. The releasing of his name is a punitive measure. The CCES sanctions were not meant to ruin or endanger a young athlete's future.

Mr. Zimmerman-Cryer declared that he believes that he deserves a sanction which will be to not play football this year, however, irrevocably damaging his future was not what he expected. He argued that the CCES does not intend the kind of harm that will occur by the release of his name and that it is not ethical to cause more harm than the sanction applied. It is within the scope of their ability to not publicly disclose his name.

The Athlete submitted that he has been labeled as part of the scandal that he is not involved in. He disclosed before he knew about the testing. The public reporting of his name will destroy his future due to the media's portrayal of him which groups him among the nine University of Waterloo football players, seven of whom tested positive.

It was the Athlete's position that the deterrent effect of public disclosure is not required in his case because he came to the CCES for help. He was already deterred. They did not catch him or seek him out. How can the release of his name help the CCES in deterring other athletes from doping infractions? He was not caught committing an infraction. He tried to do what was right. The release of his name will only deter young athletes from disclosing doping infractions. They will take a chance on a random test. An athlete's disclosure of a violation is an action that should be encouraged by any organization that considers itself to be part of the solution to stop drug use in university sport. Why would anyone come to their coaches, their school and the CCES for help and support during a time of crisis and do the right thing when they will be scapegoated and their future destroyed? The Athlete will not be playing football this year - he is at a school that no longer has football. He just wants to focus on his grades and study for his LSAT, therefore releasing his name as a tracking device is irrelevant.

**The CCES:**

On the subject of the sanction, Mr. Lech declared on behalf of the CCES that the Athlete's early admission alone warrants a one-year

sanction to start on March 30, 2010. He did the right thing. The CCES is giving him the credit he is due for his admission, resulting in a reduced suspension. This one-year reduction in the sanction proposed by the CCES is the maximum possible reduction permitted (CADP Rule 7.47) from the two-year basic sanction provided for in Rule 7.38 of the CADP. The CCES treated the Athlete fairly and did not scapegoat him.

With respect to the issue of public disclosure, it is the position of the CCES that there is no reason to not name the athlete in its normal media release at the conclusion of the arbitration. The WADA Code and the CADP both contain detailed rules on the topic which govern this matter.

CADP Rule 7.90 directs that the decision of the Doping Tribunal shall be made public and that the CCES shall publicly release the reasoned decision in a timely fashion. It can be found on the SDRCC website or on the CCES website. There is no ability to redact the athlete's name from the final reasoned decision if the Doping Tribunal finds that there has been a violation which, in this case, has been admitted.

WADA Code section 14.2.2 mandates that the athlete be publicly named in the list of what it means, at a minimum, to report on the disposition of the anti-doping matter.

Mr. Lech submitted that CADP Rule 7.22 matches the WADA Code. It mandates the CCES to "publicly report the disposition of the anti-doping matter". How the CCES typically does this is described in its Public Disclosure Policy. The CCES creates a short media release and names the

individual found to have committed an anti-doping rule violation in every case where there is a period of ineligibility imposed. The media release contains, at a minimum, the athlete's name, sport or school, the violation, the sanction and how the sanction was arrived at. The various internal policies or guidelines of the CCES are not *per se* properly the subject of arbitral review before the Doping Tribunal so long as the general provisions of the CADP are respected.

Counsel argued that although there is some scope in the CCES Public Disclosure Policy to not name the athlete where there has been a period of ineligibility imposed that is less than two years, there must be "compelling circumstances" to do this. In the present case, there are no such compelling circumstances. There is no evidence that the Athlete's future would be destroyed because of the public disclosure of his name by the CCES. Naming him will only cause some embarrassment. The CCES is unsure why naming the Athlete in its media release is problematic for him when the full reasoned decision of the arbitrator must be made public, which will include the Athlete's name.

The CCES Public Disclosure Policy makes plain its goal of openness and transparency. The need for public disclosure is very clear: there is an important deterrent effect and naming the athlete who is sanctioned is required as a practical matter so that *all* sports can monitor that an individual who is subject to a sanction does not participate in sport during the period of ineligibility.

Mr. Lech submitted that the Athlete admitted the anti-doping violation of use of a steroid and that it is fair and appropriate to have his name publicly associated with this serious rule violation. This is what the CCES media release will do. Further, the WADA Code and the CADP direct the CCES to make public how the anti-doping matter was "disposed of" and this certainly includes the sanction reduction calculation. If the Athlete seeks to benefit from a sanction reduction based on his early admission, this must be briefly explained.

## **DECISION**

Both the Athlete and the CCES share the view that the sanction of one (1) year of ineligibility proposed by the CCES for the Athlete in its notice of April 23, 2010 is fair. It is also consistent with the CADP Rules. Rule 7.28 states in part that use by an Athlete of a prohibited substance is an anti-doping rule violation. Mr. Zimmerman-Cryer admitted to having taken a prohibited substance for three days. This was his first anti-doping rule violation. Rule 7.38 of the CADP reads in part that the period of ineligibility imposed for a first violation of Rule 7.28 "shall be two (2) years *Ineligibility*, unless the conditions for eliminating or reducing the period of *Ineligibility*, as provided in... Rules 7.44-7.48... are met".

Rule 7.47 provides in part as follows:

Where an Athlete... voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection... or, in the case of an anti-doping rule violation other than pursuant to Rules 7.23-

7.27 (Presence) before receiving first notice of the admitted violation... and that admission is the only reliable evidence of the violation at the time of the admission, then the period of *Ineligibility* may be reduced, but not below one-half of the period of *Ineligibility* otherwise applicable.

The Athlete's admission occurred before any notice of a sample collection and, of course, before he received any notice of the violation. As well, his admission was the only evidence of the violation when he made it.

As Mr. Lech pointed out in his submissions on behalf of the CCES, the reduction of the period of ineligibility from the two years stipulated in Rule 7.38 to one year is the maximum possible reduction permitted under Rule 7.47. The period of ineligibility cannot be reduced below one-half of the period otherwise applicable. This tribunal is in agreement with both the Athlete and the CCES that such a reduction is fair and appropriate in the present case. The tribunal also observes that the CCES has been fair and generous towards the Athlete in proposing the shortest possible suspension permitted by the rules and in offering him the opportunity to sign a voluntary Provisional Suspension over four months after he had declined to do so, thus giving him a credit for those four months.

Mr. Zimmerman-Cryer knowingly took a prohibited substance in an attempt to increase his strength and enhance his performance in the game of football. He obtained one bottle of this substance and took it for three days. This is a very serious anti-doping rule violation which is deserving of a strong sanction in accordance with the applicable provisions of the CADP.



On the other hand, the Athlete decided shortly after having committed the violation to disclose to one of his coaches that he had taken the substance. He also admitted his actions to the university's Athletic Director, to a counselor and to the Provost. The Athlete has shown courage and honesty by these quick and forthright admissions to the university authorities which allow for the maximum possible reduction permitted under rule 7.47. Mr. Zimmerman-Cryer also filled out and signed an "Admission of a Violation" form. He told his family. Some two weeks after this, on April 16, 2010, he stated in writing to Mr. Huisman of the CIS that he was sincerely sorry for the decision he had made and that the stress, embarrassment and shame it brought to his family, coaches, teammates, school and the CIS is something that he feels terribly about. He blamed only himself, took full responsibility for his bad decision and acknowledged that he had positive role models surrounding him. As well, he admitted his transgression at the arbitration hearing. He fully realizes that what he did was wrong and a terrible mistake. He testified to this at the hearing. His evidence has convinced me that the violation was for the Athlete an isolated incident and not in keeping with his values and true character. He no doubt deeply regrets his mistake.

In accordance with Rule 7.15 of the CADP, by voluntarily accepting a Provisional Suspension in writing from the CCES and thereafter refraining from competing, the Athlete is entitled to receive a credit for such period of voluntary Provisional Suspension against any period of ineligibility which may be imposed. The document which the Athlete signed indicates that the voluntary Provisional Suspension commenced on March 30, 2010, the date of his formal admission to the CCES.

With regard to the issue of the public disclosure of the Athlete's name by the CCES after the issuance of this award, I have some doubt as to the jurisdiction of the tribunal to make any order on the topic. However, the parties have made extensive submissions on this matter, neither party raised an objection to my jurisdiction to interpret and apply Rule 7.22 of the CADP and subsection 14.2.2 of the WADA Code, and I would like to provide them with whatever assistance I can on this subject. Therefore, I will confirm my understanding of what the pertinent rules entail.

Before doing that, I will outline the basis of my doubt as to this tribunal's jurisdiction on the issue of public disclosure by the CCES. Section 6.17 of the *Canadian Sport Dispute Resolution Code (Code)* is entitled "Scope of Panel's Review". This title indicates to me that the purpose of the provision is to outline the ambit of the tribunal's jurisdiction. The relevant part of the subsection states that "the Panel may substitute its decision for: ... (ii) "in case of Doping Disputes, the CCES' assertion that a doping violation has occurred and its recommended sanction flowing therefrom". There is no other decision, assertion, recommendation or subject matter specified in subsection 6.17 for which the Doping Tribunal may substitute its decision or which it may simply decide. In my view, this means that it is only with respect to the CCES' assertion of a doping violation and its recommended sanction that a Doping Tribunal has jurisdiction to make an order, unless another Code, CADP or WADA Code provision specifically grants it jurisdiction to decide another matter. I am unaware of the existence of any such provision. The contents of the public disclosure by the CCES after the hearing is quite a different issue than the existence of a violation and the appropriate sanction.

Moreover, the part of Rule 7.22 of the CADP which is at issue and subsection 14.2.2 of the WADA Code stipulate what *the CCES* shall do *after* the conclusion of the arbitration hearing. I do not believe that a Doping Tribunal has the jurisdiction to make an order as to what *the CCES* should do *after* the hearing unless a Code, CADP or WADA Code provision specifically gives the tribunal such jurisdiction. None do with respect to public disclosure.

In spite of my jurisdictional doubts, as stated above, this tribunal will now confirm its understanding of what the pertinent rules entail in the case at hand with regard to the public disclosure of the Athlete's name by the CCES.

The relevant rules and sections clearly specify what is to occur with respect to the public disclosure by the CCES of the disposition of an anti-doping matter. These provisions must govern what the CCES shall do. Rule 7.22 states in part that within 20 days of a determination at a hearing whether an anti-doping rule violation has occurred, "the CCES shall publicly report the disposition of the anti-doping matter." This is mandatory language. The CCES must give a public report on the result of the anti-doping matter. In my estimation, this could reasonably include the sport, the anti-doping rule violated, the prohibited substance involved, the sanction imposed and a brief statement of how the sanction was determined.

The CCES is a signatory to the WADA Code and its mandatory international standards. The CCES has implemented the WADA Code through the CADP, the domestic rules which govern this proceeding. Rule 1.3 of the CADP says that the CADP is "rooted in and informed by" the

WADA Code. Subsection 14.2.2 of the WADA Code deals with exactly the same subject as does Rule 7.22 of the CADP. It also stipulates what the CCES must do regarding public disclosure no later than 20 days after a doping hearing: it states that the anti-doping organization, which in this case is the CCES, "must publicly report the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the *Athlete* or other *Person* committing the violation, the *Prohibited Substance* or *Prohibited Method* involved and the *Consequences* imposed." This wording clearly specifies the contents of the public report by the CCES.

Moreover, Rule 7.90 of the CADP provides in part that the CCES "shall publicly release the decision and written reasons of the Doping Tribunal within twenty (20) days of receipt of the written reasons." The decision of the Doping Tribunal names all the parties to the proceeding, including the Athlete. Therefore, by publicly releasing the decision, the CCES is publicly disclosing the name of the Athlete. Rule 7.90 also stipulates that the "decisions and written reasons of the Doping Tribunal shall be public". Subsection 6.21 (g) of the *Canadian Sport Dispute Resolution Code* specifies that "an award in a Doping Dispute... must be made public", subject to the applicable rules of the CADP. It follows that the short public report by the CCES of the disposition of the matter after the hearing, which includes the Athlete's name, won't reveal anything new.

The CCES Public Disclosure Policy is not part of the governing provisions of the CADP and the WADA Code. That policy does state that a media release issued by the CCES within 20 days of determination of a violation will normally name the individual where the suspension is less than two years, unless there are compelling circumstances not to do so.

However, no such language is found in the relevant provisions of the CADP or the WADA Code. The WADA Code in particular specifies the public reporting of the Athlete's name by the anti-doping organization with no mention of compelling circumstances to not do so. It would therefore be improper for the tribunal to inquire as to whether or not the evidence established compelling circumstances for the CCES to not name the Athlete.

The tribunal trusts that when Mr. Zimmerman-Cryer applies for admission to law schools in the normal manner, and not through football-related channels, they will consider his good grades, his LSAT score and his strong values and character. He may very well find that his chances of success are much improved, compared to when he tried to transfer to another university via an athletic director and a football coach shortly after the events in question. As well, anyone who reads this decision will see that the mistake Mr. Zimmerman-Cryer made is not indicative of the kind of person he is.

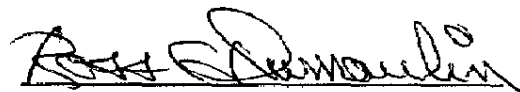
For all of the above reasons, it is hereby ordered that the sanction for the anti-doping rule violation of use of a prohibited substance admitted by the Athlete be one (1) year of ineligibility, to be served commencing on March 30, 2010 and ending on March 30, 2011.

It is also confirmed that, in accordance with CADP Rule 7.22, within 20 days of the date of the determination of the rule violation, the CCES shall publicly report the disposition of this matter and that, in accordance with subsection 14.2.2 of the WADA Code, this report will include the sport, the anti-doping rule violated, the name of the Athlete, the prohibited substance involved and the

- 21 -

sanction imposed. The CCES may also include in its report the date of the violation and a brief statement of how the sanction was determined.

Dated at Ottawa this 20<sup>th</sup> day of August , 2010.

A handwritten signature in black ink, appearing to read "Ross C. Dumoulin", written over a horizontal line.

Ross C. Dumoulin  
Arbitrator