



WERTHEIM BECKER

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Our Ref: MR M HACKER/dmv

Your Ref:

Date: 6 September 2012

Dear Fahmy

re. **DOPING HEARING – RUAN MICHAEL CLASSEN**
TUESDAY 28 AUGUST 2012 AT 17H30

I am transmitting to you herewith the signed Determination in the above matter for your kind attention.

Although the Determination has been signed only by me, both Dr Collins and Professor Coopoo concur with the Determination and have requested me to sign the Determination on their behalf.

I am also transmitting to you herewith, as an attachment, my statement of account in respect of my charges relative to this matter, for your kind consideration and payment.

Kind regards

MONTY

WERTHEIM BECKER INC.

Enc.



Wertheim Becker Inc - Registration No. 1999/024354/21

Directors: S. Gordon, K.H. Hacker, M.S. Hacker, R.L. Edmunds, B.B. Joffe, A.C. Kika, D Reece, J Van Der Westhuizen

Executive Consultant: I Gordon

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In the matter between :

South African Institute for Drug-Free Sport (SAIDS)

Complainant

and

Ruan Michael Claasen

Respondent

DETERMINATION

1. CHARGE :

The Respondent was charged on 13 June 2012 with an Anti-Doping Rule violation for contravening Article 2.1 of the 2009 Anti-Doping Rules of SAIDS, on 5 May 2012, in that he provided an in-competition urine sample during the South African Open Athletics Championships which, upon analysis by the South African Doping Control Laboratory at the University of the Free State, found the presence of the prohibited substance identified as 11-nor-delta9-tetrahydrocannabinol-9-carboxylic acid, a metabolite of cannabis in sample number 2634828, which is characterised on the World Anti-Doping Code 2011 Prohibited List International Standard.

2. JURISDICTION :

- 2.1 In terms of Section 10(1)(e) of the South African Institute for Drug-Free Sport Act No. 14 of 1997, National Sports Federations must adopt and implement Anti-Doping Policies and Rules which conform with the World Anti-Doping Code ("the Code") and with the requirements as set out in the SAIDS Anti-Doping Rules.

- 2.2 The Code is the core document produced by the World Anti-Doping Agency ("WADA") and provides the framework for the harmonization of Anti-Doping Policies, Rules and Regulations, across all sports and all countries around the world.
- 2.3 The South African Government has made a formal commitment to the Code and formally recognized the role of WADA through the Copenhagen Declaration of Anti-Doping In Sport (2003).
- 2.4 SAIDS is the statutory body established by the South African Government with the responsibility to promote and support the elimination of doping in sport in South Africa.
- 2.5 SAIDS has formally accepted the WADA Code and has adopted and implemented its Anti-Doping Rules in accordance with its responsibilities under the Code.
- 2.6 The International Association of Athletics Federations ("IAAF") adopted the Code and following an International Review of the Code by all signatories, with the new WADA Anti-Doping Code 2009 having been agreed with an effective implementation date of 1 January 2009, these Rules under the Code were adopted and implemented in conformity with the IAAF's continuing efforts to eradicate doping in the sport of athletics.
- 2.7 The Respondent is a student teacher athlete who falls under and is bound by the Athletics South Africa (ASA) and the IAAF Rules, to which ASA is bound.
- 2.8 The Anti-Doping Rules so adopted by SAIDS, ASA and IAAF, are sports rules governing the conditions under which athletes participate in the sport of athletics. Athletes, including the Respondent, accept these Rules as a condition of participation and are bound by them.

2.9 The SAIDS Anti-Doping Rules apply to SAIDS, each National Federation of South Africa and each participant in the activities of the National Federations by virtue of the participants' membership, accreditation or participation in their National Federations or their activities and events. The Complainant in this matter has jurisdiction over the IAAF and its members, including the Respondent, who are consequently subject to the SAIDS Anti-Doping Rules and the IAAF Rules.

3. DISCIPLINARY COMMITTEE :

3.1 A Disciplinary Committee was convened by the Complainant in order to determine whether, in this case, a doping violation in terms of the SAIDS Rules and as embodied in the charge aforementioned, was committed by the Respondent.

3.2 The Committee sitting as a Tribunal, consisted of :

- Monty Hacker, Chairperson and an admitted attorney of some fifty years standing;
- Dr Rob Collins, a medical practitioner of eighteen years standing and currently practising as a sports physician over the past five of those years;
- Professor Yoga Coopoo, of the University of Johannesburg Faculty of Health, a sports administrator representative.

3.3 The Complainant was represented at the hearing by Rahidien Cullis, who was charged with the duty of prosecuting the Respondent.

3.4 There being no witnesses present at the Hearing for either SAIDS or the Respondent, save for the Respondent who appeared personally before the Tribunal at which he :

- 3.4.1 pleaded guilty to the charge;
- 3.4.2 explained the presence of marijuana in his urine sample as a result of him having smoked marijuana at a party the evening before the competition at which he was tested, adding that in addition to smoking marijuana, he was smoking hubbly, which in all likelihood, had a high concentration of cannabis (marijuana) in it;
- 3.4.3 testified that he was not addicted to marijuana, but conceded that he was a recreational user.
- 3.5 The Hearing before the Tribunal was held at the Holiday Inn, Rosebank, The Zone, Oxford Road, Johannesburg, Gauteng, on 28 August 2012, following upon the consideration by the Tribunal of the package provided by the Complainant, consisting of :
 - 3.5.1 the Complainant's letter to the Respondent dated 13 June 2012, advising the Respondent of the doping offence committed by him and the fact that he had been provisionally suspended on that day;
 - 3.5.2 the Doping Control Form which was signed by the Respondent;
 - 3.5.3 the Respondent's A Sample Laboratory analysis dated 24 May 2012;
 - 3.5.4 the Chain of Custody Form;
 - 3.5.5 the exchange of correspondence between the Complainant and the Respondent, and;
 - 3.5.6 the Doping Control Form signed by the Respondent failed to disclose the use of either marijuana or hubbly by the

Respondent. Hubbly can be defined as a hookah or an okka pipe with scented substances which are inhaled through water.

4. COMPLAINANT'S CASE AGAINST RESPONDENT – PRESENTED BY MR CULLIS :

4.1 As set out in the charge aforementioned, the Complainant charged the Respondent with having committed an Anti-Doping Rule violation, more especially the contravention of SAIDS Rule 2.1.

4.2 SAIDS Rule 2.1 reads as follows :

"2.1 The Presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's Sample.

2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an Anti-Doping Rule violation under Article 2.1.

2.1.2 Sufficient proof of an Anti-Doping Rule violation under Article 2.1 is established by :

The presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives his right to have his B Sample analysed, and the B Sample is not analysed."

- 4.3 The Respondent elected not to have his B Sample analysed.
- 4.4 Cannabis/marijuana is not performance enhancing.
- 4.5 The onus of proving this contravention lies with the Complainant, but in any event, the Respondent pleaded guilty to the charge and testified to that effect.
- 4.6 The Respondent, by failing to call for the testing of his B Sample had waived the right to the analysis of his B Sample. Consequently, his A Sample, as analysed by the South African Doping Control Laboratory at the University of the Free State on 24 May 2012, conclusively revealed the presence of 11-nor-delta9-tetrahydrocannabinol-9-carboxylic acid, a metabolite of cannabis in a concentration of 380ng/ml, which exceeds the WADA Decision limit of 18ng/ml. 11-nor-delta9-tetrahydrocannabinol-9-carboxylic acid, a metabolite of cannabis, is a prohibited substance.
- 4.7 Mr Cullis accepted that the Respondent had not been competing or participating in any authorised or organised sport at any international or national level event from the date of notification of his provisional suspension.

5. SUBMISSIONS BY MR CULLIS :

- 5.1 That despite the Respondent's guilty plea, the charge against him had been proved by the Laboratory analysis of the Respondent's A Sample because the mere presence of the prohibited substance

found in the Respondent's bodily fluids constitutes a doping offence.

5.2 That no evidence either in mitigation or at all had been presented by or on behalf of the Respondent, save and except for the fact that the Respondent testified that he was only a recreational user of cannabis/marijuana and was not addicted to it.

5.3 That the Respondent had been frank with his testimony and explanation.

5.4 That the Respondent, as a first-time offender, be found guilty of committing the Anti-Doping offence as charged and recommended that a six month suspension be imposed on the Respondent, to commence retrospectively from the date upon which he was provisionally suspended, namely 13 June 2012. He also submitted that a six month suspension would be in line with a three month suspension which was handed down in the case of Thebakong, for the presence of a prohibited substance which revealed a concentration of 200ng/ml.

6. **CONCLUSION :**

6.1 The Tribunal, after deliberation, accepted the evidence and submissions of the Complainant, as well as the evidence of the Respondent.

6.2 Accordingly, the Respondent is found guilty of contravening SAIDS Anti-Doping Rule 2.1.

6.3 The sanction imposed upon the Respondent, Ruan Michael Claasen, is a six months suspension commencing 13 June 2012.

6.4 The sanction imposed in 6.3 above replaces the Respondent's provisional suspension on 13 June 2012 and the Respondent's

ineligibility during this six months sanction shall preclude him from competing and participating in any authorised or organised sport whether at local, national or international level, as per Article 10.10 "Status During Ineligibility" for the duration of the sanction hereby imposed by the Tribunal.

DATED at JOHANNESBURG ON THIS THE 6th DAY OF SEPTEMBER 2012.



MONTY HACKER
Chairman

**With PROFESSOR YOGA COOPOO and
DR ROB COLLINS having concurred
with this Determination**