

**DECISION OF THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT
ANTI-DOPING DISCIPLINARY COMMITTEE**

In the matter of

MOLEFI MATIMA

LEGISLATIVE & LEGAL BACKGROUND / FRAMEWORK

1. The South African Institute for Drug-Free Sport, "SAIDS" is a corporate body established under section 2 of the South African Institute for Drug-Free Sport, Act 14 of 1997, as amended, "the Act".
2. The main objective which SAIDS has is to promote and support the elimination of doping practices in sport which are contrary to the principles of fair play and medical ethics in the interests of the health and well being of sportspersons.
3. On 25 November 2005 SAIDS, formally accepted the World Anti-Doping Code, "the Code", which the World Anti-Doping Agency, "WADA", had adopted on 5 March 2003.
4. By doing this SAIDS, as the National Anti-Doping Organisation for South Africa, introduced anti-doping rules and principles governing participation in sport under the jurisdiction of SASCOC, the South African Sports Confederation and Olympic Committee, or any national sports federation.
5. The Anti-Doping Rules 2009, as published by SAIDS, ("the Rules"), which are applicable to the present proceedings, incorporate the mandatory provisions of the Code as well as the remaining provisions adapted by SAIDS in conformance with the Code.
6. Boxing South Africa, "BSA", as the national federation governing the sport of boxing in South Africa, has adopted and implemented SAIDS anti-doping policies and rules which conform to the Code and the Rules.

PANEL CONSTITUTION

7. This SAIDS Anti-Doping Disciplinary Committee hearing panel, consisting of John Bush - Chairperson and Legal Representative, Mzwakhe Qobose - Medical practitioner and Yoga Coopoo - Sports Administrator, ("the Panel") was appointed by SAIDS in accordance with the provisions of Article 8 of the Rules, to adjudicate whether the athlete Molefi Matima ("Matima") had violated the Rules and if so what the consequences should be.

CHARGE RELATING TO ANTI-DOPING VIOLATION

8. The charge against **Matima** is contained in a letter which was addressed and couriered to him on 4 July 2011. (A copy of the letter is attached as Annexure A.)

The relevant portion of the letter relating to the charge reads as follows:

"You have been charged with an anti-doping rule violation in terms of article 2.1 of the 2009 Anti-Doping Rules of the South African Institute for Drug-Free Sport (SAIDS).

On the 29 May 2011 you provided a urine sample (A2531395) during an in-competition test after your event, the South African Featherweight Championships as per the normal procedure for drug testing in sport. Upon analysis, the South African Doping Control Laboratory at the University of Free State reported the presence of a prohibited substance in your sample.

The substances identified were 19 Norandrosterone and 19 Noreticholanolone, metabolites and/or precursors of the Anabolic Agent, Nandrolone, which falls under the **Class S1, "Anabolic Agents"** on the World Anti-Doping Code 2011 Prohibited List International Standard.

9. Article 2.1 of the Rules reads as follows:

"2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an 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 violation under Article 2.1.

PROCEEDINGS

10. The prosecutor for SAIDS in this matter was Mr Nic Kock, "**Kock**" with Mr Khalid Galant, *providing support for the prosecution.*
11. The hearing began at 18h10 on 28 July 2011 with the introduction of those present at the hearing. Although **Matima** advised that he was happy to proceed in English, when questioned by the Chairperson, SAIDS had arranged for Ms Morantoa Kumalo to be present as interpreter. Ms Kumalo provided welcome clarifying support and assurance when appropriate or required during the proceedings. Mr Abraham Kambule, representing Boxing South Africa was also present.
12. The procedures relating to the hearing were explained to **Matima** who advised that he would represent himself and would not be calling any witnesses.
13. **Kock** and the Chairperson recorded the proceedings.
14. **Kock** read the charge and thereafter read and explained the provisions of Article 2.1 regarding SAIDS right to prosecute under Article 8.4 of the Rules. On being questioned by **Kock**, **Matima** stated that he
 - had received all the correspondence containing the details of the charge and hearing, as well as the adverse finding;
 - was not in disagreement with anything as "all was done well", as stated on the Doping Control Form";
 - did not ask for the B Sample to be tested;
 - had disclosed he had received a vitamin B12 injection from his trainer;
 - accepted there had been no break in the chain of custody of the sample.
15. **Matima** stated in reply to pertinent questions by **Kock** regarding his boxing experience and qualifications that he

- was 27 years of age
 - had been boxing since the age of 19 and professionally for about four years since he was 22-23
 - weighed in as a featherweight at 57.15 kgs, close to the maximum
 - had been trained by Nick Durandt for about 3/4 weeks before the fight
 - had previously also been trained by Buli Mashodi, who took him to the Finals in the “Baby Champs and Welsh Mnguni
 - had studied after obtaining his matric, was a fitter with an NTC 4 qualification from Buffalo City College, Eastern Cape.
16. In response to questions relating to any injuries and medication he might have been taking **Matima** advised that
- he suffered from injury to his right shoulder in the fight which was due to internal bleeding caused by an “over-right” punch
 - he had been to see the doctor of 11th April due to an assault on 9th April for the diagnosis relating to multiple abrasions for which medication had been prescribed. The medication had been purchased from Goldfields Pharmacy and Matima produced a copy of the medical certificate issued by Dr Munim, which was handed to the committee.
17. Regarding the use any other medication and supplements, the reasons for and duration of use **Matima’s** response was that he had used USN Diet Fuel, Aminostim, Stamingro, USN VO2 Max, which he purchased from Junxion Pharmacy in Carletonville. Matima handed over a copy of an invoice from Junxion Pharmacy dated 1 February 2011. This invoice was really a quote as he only bought these, along with Microval tablets, Weider Amino 6000T, USN Testo and Methox C later towards the end of April / early May.
18. **Matima** also stated that he
- had been tested in 2010 with the results being negative
 - also used 17 Testo, X4 Creatine (all USN Products) and F-Gut (?) (as written on the Junxion Pharmacy Invoice) probably meaning Phedra Cut, which aided recovery
 - currently weighed 64kgs
 - started taking supplements as a result of “word of mouth” advice from fellow athletes who suggested Panado for pain and “sachets” for stamina.
19. **Kock** then raised questions relating to the B12 3ml injection, referred to in the disclosure of medication/supplements section on the Doping Control Form, regarding intent and why this was administered by the trainer.
20. **Matima’s** response was that
- he wished Nick his trainer would have been present as he was the one who gave the injection
 - one did not question one’s trainer
 - as he did not have a manager for most of the time it was he who controlled the purse, who and when he would fight, as well as signing for fights.
21. The **Panel** members questioned why **Matima** would simply “lie down” and allow his trainer to give such the injection, well knowing as **Matima** did that he could be tested. It was also noted by **Kock** that in such circumstances others who might have been responsible for what might have happened simply got away without a test.

22. **Matima** went on to state that he was ready to "face the music." He hoped for leniency as he had the CD from Drug Free Sport and booklet was prepared to tell other guys what to look out for and not to take.
23. He then explained that he had joined Nick Durandt's stable as Nick produced champions, lining up with **Matima's** goal to go international following 2-3 SA title defences and how he came to be *on the card for the fight*. He mentioned he had experienced weight problems which conflicted with the products which he took which caused weight gain and then the Diet Fuel which he took to lose weight.
24. **Matima** advised that he had taken the following
- Creatine X4 - the night before the fight
 - USN Diet Fuel, VO2 Max Broncho, 17 Testo Methox, StaminaGro (partly), Weider Amino 9000 (not everyday) - over the period 48 Hours to 7 days before the title fight

His use of Phedra Cut which had been shown to contain methyhexneamine a prohibited substance and stimulant not found to be in his system was also questioned.

25. **Kock** the put the crucial question of how the metabolites related to Nandrolone had entered his system to **Matima**.

Matima's response was that it must have come from his involvement with the recreational drugs which he took with his friends. These had not taken with drinks or water as tablets or injected, but through a lighted pipe which was smoked.

Dr Qobose advised that neither the cocaine or heroin which may have been used would have stayed in **Matima's** system as long as suggested and in any event heroin did not contain steroids.

He questioned whether **Matima** had received any treatment for flu by way of injection within 7 days of the fight at the time when the fight doctor checked on the boxers' weight and condition or otherwise.

26. It was interesting to note that although **Matima** had advised that the taking of supplements had seen his 10km running time improve from 45 minutes to between 38 to 40 minutes he could not explain why this had occurred.
27. At this juncture **Kock** made it clear that
- although **Matima** had answered the questions put to him in a very frank and honest manner **Matima** had unfortunately been unable to establish how the prohibited substances had entered his system for the purposes of reduction of sentence;
 - the Rules made it clear that whatever was found in **Matima's** system **Matima** himself was responsible for and that it was up to **Matima** to explain how it got into his system.
 - **Matima** had failed to conclusively explain this.
 - before the Panel deliberated on the sanction to be applied it should be noted and accepted that **Matima** was first offender with no previous record of wrongdoing, a professional and subject to testing.

MITIGATION

28. **Matima** then made a very impassioned plea in mitigation of sanction. In acknowledging he had failed to say how he had got the prohibited substances and how they had entered his system **Matima** mentioned that

- he had received self punishment and was full of remorse
- the fact of his provisional suspension had been published in the Daily Despatch, *Supersport Website and elsewhere*
- his company and friends knew
- he had been rejected his father and could not even go to East London
- he had lost his title and his ranking
- there had not been enough educational campaigns
- this rendered athletes vulnerable due to ignorance
- he was prepared to be used in campaigns
- the sanction imposed should not be the end and used as an example.

PROSECUTION – PROPOSED SANCTION

29. In his closure regarding sanction **Kock** reflected on his impression regarding **Matima's** honesty and frankness. He noted his being so well spoken, suggesting that **Matima** would find "one door closing as he found another opening", in terms of possibly far bigger roles to play with his boxing abilities in being willing to assist with education around drugs and sport.
30. **Kock** went on to make it clear that article 10 of the **Rules** relating to a possible reduction of a period of ineligibility was difficult due to **Matima** having tested positive and would not be applicable. This was because **Matima** had not established why it would have been permissible for him to deviate from the standard behaviour (ie no fault, no significant fault or negligence) and how the prohibited substances entered his system.

In **Kock's** address the fact that **Matima** was articulate, a seasoned campaigner since the age of 19, with 4 years as a professional boxer and involved with supplements for some time, required that **Matima** educate himself regarding what substances he should use and what is being put into his system.

"At the end of the day it was you (Matima) who sit here and not them" said **Kock** before proposing a possible sanction.

Kock ended by calling for the **Panel** to consider imposing a period of ineligibility of 24 (twenty four months) as an appropriate sanction for the code violation.

He asked further that the **Panel** take into account the period of provisional suspension from 17 June as being time already served.

PANEL DECISION & REASONS

31. After a short adjournment for deliberation by the **Panel** members the hearing was re-convened for the **Panel** decision to be delivered by the Chairperson.
32. The **Panel** having accepted that **Matima's** violation of Article 2.1 of the **Rules** had not only been proven by the SAIDS prosecution, but also admitted by **Matima**, needed only to consider and decide upon

- 32.1 the appropriate sanction in accordance with Articles 10.1 and 10.2 of the **Rules**;
- 32.2 whether once this was determined there was any basis for any possible elimination or reduction of any period of ineligibility which might be imposed upon **Matima**, under either of Articles 10.5.1, 10.5.1.2 or 10.5.1.3 of the **Rules**, providing the totality of the evidence before the Panel supported there being no fault, no significant fault, or negligence by **Matima**, or the provision of substantial assistance by **Matima** in discovering or establishing an anti-doping rule violation.
33. The Chairperson delivered the **Panel's** decision supporting the sanction requested by **Kock** as prosecutor on behalf of SAIDS, following the **Panel's** due consideration of whether such 24 month period of ineligibility could be reduced or not.
34. The **Panel** found that there were no grounds for any such reduction. The **Panel's** reasons are based upon the fact that **Matima** failed to lead evidence to the comfortable satisfaction of the members of the **Panel** establishing how the prohibited substance entered his system.

The **Rules** prescribe this as a prerequisite for any elimination of sentence based on the further establishment of either no fault or negligence under Article 10.5.1, or the reduction of sentence based on the further establishment of either no fault or negligence under Article 10.5.2.

The **Panel** was also satisfied that it could not support excusing **Matima's** conduct in not seeking to find out what may have entered his system. It accepted this was so because of **Matima's** age, academic and technical qualification, experience, articulateness and exposure to previous testing. The **Panel's** view was that the conduct on **Matima's** part was not an acceptable deviation from the norm, as alluded **Kock** on behalf of the prosecution.

The fact that **Matima** failed to lead any supporting or corroborative witnesses weighed somewhat against him. Although the **Panel** accepted that it may have been very difficult, (possibly impossible) to have had either the doctor at the pre-fight medical regarding the flu jab, or his Trainer regarding the B12 injection administered by him, to give evidence no explanation was given for their not having been called.

35. The **Panel** thus confirms its decision to impose the sanction of ***a period of ineligibility of 24 (twenty four) months*** upon **Matima**, for a first violation of **Rule 2.1**, as required under **Rule 10.2**.

In so doing the **Panel** further confirms

- 35.1 this period would be deemed to have commenced on and run **from the 17 June 2011**, the date of notification of the adverse analytical finding, **to 16 June 2013**, both days inclusive, with the time covering the provisional suspension from the 17 June to 28 July 2011, being included as time already having been served;
- 35.2 the disqualification of the result and forfeiture of all awards made in connection with the fight, as provided under **Rule 10.1**;

35.3 that Matima

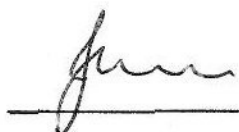
35.3.1 is not entitled to participate in any capacity under any other SASCOC affiliated sporting code, other than authorised anti-doping education or rehabilitation programs, in compliance with Rule 10.10;

35.3.2 will be required as a condition of regaining eligibility to make himself available for out-of-competition testing in compliance with Rule 10.11.

35.4 that SAIDS was asked to

35.4.1 remind BSA of its role and responsibility towards the continuously educating and informing its affiliates, clubs and boxers concerning anti-doping, particularly regarding the use of supplements;

35.4.2 request BSA to investigate the circumstances surrounding Mr Nick Durandt's apparent unlawful administering of the B12 3ml injection to Matima.



John Bush

Chairman



Musiwakhe Qobose

Member



Yoga Coopoo

Member

11 October 2011