

BEFORE THE ANTI-DOPING SOUTH AFRICA (APPEAL TRIBUNAL)

(Institute in terms of section 1792)(a) of Act N. 14 of 1997, as amended by Act No.25 of 2006)

CASE NO: AT 01/2012

In the matter between:

WORLD ANTI-DOPING AGENCY (WADA)

Appellant

versus

MR JOHNNY YOUNG

First Respondent

and

SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT (SAIDS)

Second Respondent

DECISION

1. HEARING

- 1.1. This is a unanimous decision of the appeal committee established by the South Africa Institute for Drug Free Sports ("SAIDS") in respect of the disciplinary hearing and sentence in the case of Johnny Young ("athlete").
- 1.2. The appeal committee established by SAIDS is comprised of the following members, -
 - 1.2.1. Mr Metja Ledwaba (Chairperson);
 - 1.2.2. Dr Glen Hagerman (Medical Representative) and
 - 1.2.3. Mr Yoga Coopoo (Sports Administrator).
- 1.3. The appeal was considered and decided on the documents submitted without either party presenting evidence. None of the abovementioned parties were present. The appellant did request in its appeal that the appeal be decided on the documents.
- 1.4. The appeal hearing took place on 19 April 2012 at the Garden Court, Kempton Park.

2. BACKGROUND



- 2.1. On 17 February 2011, the athlete (Johnny Young) was found guilty of contravention of article 2.9 of SAIDS Anti-Doping Rules, 2009, in a disciplinary hearing convened by SAIDS ("Initial Hearing").
- 2.2. At the hearing on 17 February 2011, the disciplinary hearing panel decided to impose a period of ineligibility of 18 months in respect of the athlete starting on 16 November 2010. The disciplinary hearing panel also provided that "*the sanction could be reduced by 6 months after review in August 2011 to see if the athlete has assisted SAIDS in educating triathlon athletes*". ("initial decision").
- 2.3. A review of the initial decision was then held on 29 November 2011 by a committee established by the SAIDS ("review committee"). The review panel only concerned itself with the question as to whether or not the athlete has satisfied the condition upon which the period of his ineligibility can be reduced. Having considered the evidence and submissions made to this panel, it was decided as follows:
 - (1) *the athlete has satisfied the requirements for the reduction of his period of ineligibility by 6 months;*
 - (2) *the period of ineligibility therefore expire on 15 November 2011.*
- 2.4. Carrard & Associates, acting on behalf of the World Anti-Doping Agency (WADA), lodged an appeal against the decision of the review committee.
- 2.5. For purposes of this appeal written representations were made by WADA and Triathlon South Africa (the National Federation).

3. BASIS OF THE APPEAL

- 3.1. WADA identified as basis for its *locus standi* (right of action) Articles 13.2.2 and 13.2.3 of the SAIDS Anti Doping Rules. The relevant articles read as follows:
 - 3.1.1. Article 13.2.2 - "*in cases involving national level athletes as defined by each National Anti Doping Organization, that do not have a right to appeal under article 13.2.1, the decision may be appealed to the SAIDS Anti-Doing Appeal panel or directly to CAS*";



3.1.2. Article 13.2.3 which provides as follows in relation to person entitled to appeal

"in cases under Article 13.2.1¹, the following parties shall have the right to appeal to CAS";

- (a) the Athlete or other Person who is the subject of the decision being appealed;*
- (b) the other party to the case in which the decision was rendered;*
- (c) the relevant International Federation;*
- (d) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and*
- (e) WADA*

In cases under Article under Article 13.2.2², the parties having the right to appeal to the SAIDS Anti-Doping Appeal Panel shall at a minimum include the:-

- (1) Athlete or other Person who is the subject of the decision being appealed;*
- (2) The other party to the case in which the decision was rendered;*
- (3) Relevant International Federation;*

¹ Article 13.2.1 provides that – *"in cases arising from Competition in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court."*

² Article 13.2.2 provides that – *"In cases involving national-level Athletes, as defined by each National Anti-Doping Organisation, that do not have the right to appeal under Article 13.2.1, the decision may be appealed to the SAIDS Anti-Doping Appeal Panel or directly to CAS."*



- (4) *National Olympic Committee;*
- (5) *Athlete's or other Person's National Anti-Doping Organization; and*
- (6) *WADA."*

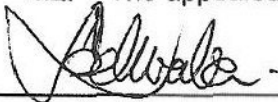
3.2. Having considered the above articles and the fact that the testing in this particular case did not involve cases falling under Article 13.2.1, the appeal by WADA is intended to be based on Article 13.2.2 and the submission by Triathlon South Africa that the athlete is not a National-Level Athlete, the appeal committee considered it appropriate to confirm whether the athlete in this instance is a National-Level Athlete for purpose of establishing the *locus standi* of WADA under article 13.2.

3.3. A telephone call was made to Fahmy Galant the Doping Control Manager of the South African Institute for Drug Free Sport³, who confirmed that the athlete was not a National-Level Athlete, Mr Galant specifically confirmed for purpose of definition of National-Level Athlete that the Athlete does not appear in the SAIDS Registered Testing Pool.

4. APPEAL COMMITTEE DECISION

4.1. Having regard to the above, and in particular the fact that the athlete is neither an International-Level Athlete nor a National-Level Athlete, the appeal committee finds that WADA has not established a proper *locus standi* to bring the appeal against the decision that was taken by the review panel.

4.2. The appealed is therefore dismissed.



METJA LEDWABA
(Chairperson)

³ The telephone call was made after due consideration as to whether evidence obtained through such telephone call would be admissible. After having considered the SAIDS Anti-Doping Rules, 2009, in particular Articles 13.7.1, 13.7.7 and 13.7.8 the appeal committee considered it appropriate to accept the evidence through telephone consultation with SAIDS.