

IRISH SPORT ANTI-DOPING DISCIPLINARY PANEL

IN THE MATTER OF THE IRISH MARTIAL ARTS COMMISSION

AND

Athlete IS-1516

DECISION

A. INTRODUCTION

1. This is the decision of the Irish Sport Anti-Doping Disciplinary Panel (the "Panel") following a hearing into an allegation that Ms. IS-1516, an athlete engaged in the sport of kick boxing, was guilty of an anti-doping rule violation which alleged that Ms. IS-1516 under Article 2.4 of the Irish Anti-Doping Rules (the "Rules") and, in particular, violated the applicable requirements regarding athlete availability for out-of-competition testing, including an alleged failure to provide "whereabouts" information as required under Article 5.4 of the Rules.¹
2. The Panel conducted a hearing into the alleged violation of the Rules on 13 September, 2006. Ms. IS-1516, in correspondence prior to

¹ Article 2.4 of the Rules states that it is an anti-doping rule violation to violate "applicable requirements regarding athlete availability for out-of-competition testing including failure to provide required whereabouts information set forth in Article 5.4 (Whereabouts requirements)". Article 5.4.4 of the Rules provides that "any athlete in the Irish Sports Council Registered Testing Pool who fails to timely submit a required quarterly whereabouts report after receipt of two formal written warnings from the Irish Sports Council to do so, in the preceding eighteen (18) months, shall have been considered to have committed an anti-doping rule violation pursuant to Article 2.4 (Whereabouts Violations)"

the hearing and at the outset of the hearing, admitted the violation. She gave evidence in mitigation. The Irish Sports Council ("ISC") was present at the hearing as an observer through its solicitor, Gary Rice, of Beauchamps Solicitors, and Dr. Una May, the Programme Manager of the ISC Anti-Doping Programme. The Irish Martial Arts Commission ("IMAC") was present at the hearing through its Anti-Doping Officer, Roy Baker.

3. The circumstances in which the hearing was conducted were somewhat unusual. The Panel agreed that Ms. IS-1516 could give her evidence and make any submissions she wished to make by telephone having regard to her difficulties in attending in person at the hearing. Ms. IS-1516 is based in [...] and has started a new job. The Panel was prepared to accommodate Ms. IS-1516 difficulties and to sit late any evening or on any weekend day which suited her. It was ultimately not possible to agree a date which suited Ms. IS-1516 and Mr. Baker of the IMAC. Having regard to the delays in the case (to which reference will be made later in this Decision), the Panel felt that it had no alternative but to proceed as it did with Ms. IS-1516 giving her evidence and making her submissions by telephone with all other parties represented in person at the hearing.
4. Having heard the evidence and submissions, the Panel retired briefly to consider its Decision. The Panel was satisfied that it would not be appropriate to impose a greater sanction than a period of three months ineligibility which is the mandatory period provided for in the case of a first violation in Article 10.4.3 of the Rules. It was noted that Ms. IS-1516 had already served a period of provisional suspension imposed by the IMAC of three months. The Panel decided that no further suspension was warranted in the circumstances.

B. THE ALLEGED VIOLATION

5. The allegation was that Ms. IS-1516 was guilty of an anti-doping rule violation under Article 2.4 of the Rules by violating the applicable requirements regarding athlete availability for out of competition testing including failure to provide whereabouts information required under Article 5.4 of the Rules.

C. THE PROCEDURE ADOPTED

6. Ms. IS-1516 was notified of the alleged violation by the ISC by a registered letter dated 25 May 2006. The letter alleged that on 15 March 2006, the ISC had sent a quarterly whereabouts form for the period from May to July 2006 and requested that it be returned by Ms. IS-1516 by 13 April 2006. It was alleged that Ms. IS-1516 did not do so and that the ISC sent a further letter to her on 19 April 2006 giving her until 28 April 2006 to do so. It is alleged that Ms. IS-1516 did not submit the report by the extended date. The ISC letter of 25 May 2006 further noted that under Article 5.2 of the Rules, Ms. IS-1516 was subject to testing and was notified of her inclusion in the Registered Testing Pool on 14 February 2005. The letter stated that Ms. IS-1516 had failed to submit a required whereabouts form after receiving two formal written warnings from the ISC to do so on 3 May 2005 and 8 August 2005, in the preceding eighteen months. The letter alleged that Ms. IS-1516 had committed an anti-doping rule violation pursuant to Article 2.4 of the Rules in that it was alleged that Ms. IS-1516 had violated the applicable requirements regarding athlete availability for out-of-competition testing including failure to provide the required whereabouts information set forth in Article 5.4 of the Rules. The letter further noted that under Article 7.8.4 of the Rules, the IMAC could provisionally suspend Ms. IS-1516 from the date of the ISC letter of 25 May 2006 and referred to Ms. IS-1516 entitlement to appeal any such provisional suspension. The letter

then referred to the disciplinary procedure under Article 8.3 of the Rules and pointed out that a finding that Ms. IS-1516 had committed the alleged anti-doping rule violation would result in the imposition of a period of ineligibility for a first violation of three months to one year pursuant to Article 10.4.3 of the Rules. The ISC included with its letter all documentation in its possession or control relevant to the alleged anti-doping rule violation and indicated that Ms. IS-1516 would be served with any further documentation as it came into the control or possession of the ISC which documentation would also be furnished to the Panel and to the IMAC.

7. On the same date, the ISC wrote to Brendan Dowling of the IMAC notifying him of the alleged anti-doping rule violation by Ms. IS-1516.
8. The ISC referred the matter to the Panel on the same date, 25 May 2006, for an adjudication as to whether a violation of the Rules had occurred and, if so, as to what penalty should be imposed on Ms. IS-1516.
9. From the time the matter was referred to it, the Panel sought on a number of occasions to ascertain Ms. IS-1516 position and that of the IMAC in relation to the alleged violation and to set a date for the hearing. The Panel was conscious of its obligation to do so "expeditiously" under the Rules. It is a matter of some considerable concern to the Panel that correspondence sent by and on behalf of the Panel to Ms. IS-1516 and to the IMAC was not responded to. It was necessary to write to Ms. IS-1516 on a number of occasions before finally ascertaining her position. No written response from the IMAC was received by the Panel to any of its correspondence until an email was received from Mr. Baker on 13 September 2006, the day of the hearing. The Panel appreciates that Mr. Baker has only recently taken up the position of anti-doping officer with the IMAC, a position previously held by Mr. Dowling. As was pointed out at the

hearing, it is essential in order for the Rules to be effectively operated and for the disciplinary procedure provided for in the Rules to be operated fairly and efficiently that all persons involved in the process, including the athletes and the national governing bodies, co-operate fully and respond expeditiously to communications from the Panel. This is necessary so that the Panel can fairly and properly exercise its functions and obligations under the Rules. The Panel is concerned that this did not happen in the present case.

10. The Secretary to the Panel wrote to Ms. IS-1516 on 1 June 2006. That letter was copied to the IMAC. In that letter, the Secretary sought to establish whether Ms. IS-1516 disputed or acknowledged the alleged violation. The letter pointed out that even if Ms. IS-1516 acknowledged the alleged violation she was entitled to a hearing on the consequences of such violation. The letter also enquired as to whether Ms. IS-1516 was serving a provisional suspension. The letter pointed out that the Panel was anxious to discharge its functions as soon as practicable having regard to its obligation to do so under the Rules.
11. There was no response to that letter from Ms. IS-1516. The IMAC did not respond to or acknowledge the letter either. The Secretary to the Panel wrote again to Ms. IS-1516 on 13 June 2006 and copied that letter to the IMAC. That letter sought a response to the earlier letter of 1 June 2006 as soon as possible and again requested Ms. IS-1516 to inform the Panel as to whether she had been provisionally suspended and, if so, whether she wished to appeal the provisional suspension. The Panel also wrote to the IMAC on the same date noting that the Panel had not been notified as to whether Ms. IS-1516 had been provisionally suspended and seeking that information. The IMAC did not acknowledge receipt of either of these letters and did not provide the Panel with the information requested.

12. Ms. IS-1516 did respond by email on 21 June 2006. In that letter she apologised for her delay in responding to the previous correspondence. She stated that she was having trouble with her mailing system. She stated that she wished to *"acknowledge" the Panel's "decision on [her] anti-doping rule violation ..."*. She stated that she was *"aware that [she] failed to submit [her] out-of-competition whereabouts quarterly forms"* and *"understood that [she was] provisionally suspended from competition on a three month basis"*. She stated that she had been forwarded this information by Mr. Dowling, the then anti-doping officer with the IMAC.
13. The Panel responded to Ms. IS-1516 email by letter dated 23 June 2006. That letter was also copied to the IMAC. In that letter, it was pointed out that the Panel had made no decision whatsoever in relation to the allegation against her. It was made clear that the provisional suspension had been imposed by the IMAC and not by the Panel. The letter again pointed out that Ms. IS-1516 was entitled to a hearing in relation to the alleged violation and that even if the violation was admitted she was entitled to a hearing in respect of any punishment that might be imposed. Ms. IS-1516 was again requested to provide the information sought in the previous correspondence.
14. Ms. IS-1516 did not respond to that letter. Nor was any response or acknowledgement received from the IMAC.
15. The Secretary to the Panel wrote again to Ms. IS-1516 on 21 July 2006. In that letter it was again pointed out that even if Ms. IS-1516 acknowledged that a violation had occurred she was still entitled to a hearing before the Panel with regard to the consequences of such a violation. She was referred to the provisions of Article 10 of the Rules. The letter then stated that if a response was not received from Ms. IS-1516 within fourteen days of the date of that letter the

Panel might be left with no alternative but to fix a hearing date on its own initiative and then to proceed to determine matters on that date. That letter was also copied to the IMAC.

16. There was no response from Ms. IS-1516 to that letter. Nor was any response or acknowledgement received from the IMAC.
17. The Panel wrote again to Ms. IS-1516 on 29 August 2006. That letter noted that previous correspondence had remained unanswered. The letter pointed out that it was very important for an athlete to co-operate with the Panel so that an expeditious hearing could take place. In the absence of a response and having regard to what was stated in the previous correspondence, Ms. IS-1516 was informed that the Panel had determined that a hearing into the alleged violation would take place at 5pm on Wednesday, 13 September 2006. Ms. IS-1516 was again requested to respond to the previous correspondence. That letter was also copied to the IMAC.
18. Ms. IS-1516 responded by email on 30 August 2006. In her email Ms. IS-1516 stated that she was aware that a hearing would take place at 5pm on 13 September 2006. She stated that she did not wish to attend the hearing and would comply with any decision made by the Panel. She acknowledged that she did not complete the whereabouts form and stated this was due to "*domestic matters*". She stated that she would accept "*whatever punishment the Panel deemed suitable*". She also acknowledged that she had been suspended for three months by the IMAC.
19. There was no response or acknowledgement from the IMAC to the letter of 29 August 2006. That was regrettable having regard to the fact that under Article 8.4.3 of the Rules it is the national governing body of the athlete concerned (in this case the IMAC) which must present the case against the athlete at the hearing before the Panel. The Panel would have expected the IMAC to have responded to and

engaged constructively with the Panel in relation to the hearing. That did not happen until just before the hearing when Mr. Baker became involved.

20. The Panel wrote again to Ms. IS-1516 on 4 September 2006. The Panel noted the contents of Ms. IS-1516 email of 30 August 2006. The Panel stated that it was a matter for Ms. IS-1516 as to whether she wished to attend the hearing or not but, in her interests, Ms. IS-1516 attention was drawn to the provisions of Article 10.4.3 of the Rules under which the period of ineligibility which the Panel was required to impose in respect of an admitted violation of Article 2.4 was between three months and one year. The Panel stated that in determining the appropriate period of ineligibility (within the range provided for in Article 10.4.3), the Panel would wish to take into account any evidence which Ms. IS-1516 might care to adduce or any submissions which Ms. IS-1516 might wish to make to it. The Panel stated that in the absence of such evidence or submissions, it was possible that the period of ineligibility imposed upon her could be higher than it might otherwise be. The letter stated that it was very much in her interest that Ms. IS-1516 attended the hearing to adduce any relevant evidence and to make any relevant submissions to the Panel. Ms. IS-1516 was requested to confirm receipt of that communication and also to inform the Panel as to whether she intended appearing at the hearing and adducing evidence or making submissions on that date. That letter was copied to the IMAC. There was again no response or acknowledgement from the IMAC.
21. Ms. IS-1516 replied by email on 5 September 2006. In her email Ms. IS-1516 stated that she had been selected to compete in the [...] in 2005. She stated that she had pulled out of the team two weeks before the event due to "*domestic reasons that caused a domestic situation*". She stated that she then left her home and stopped training in mid-November 2005.

She stated that she left her house due to her "*estrangement with [her] mother and had no contact with her until May [2006] when she moved back into the house*". Ms. IS-1516 stated that she did not receive any correspondence sent to her address during the relevant period, that she was not in training and was unaware that she should have notified the ISC of a different address. She stated that she was "*distressed*" and "*under immense pressure due to [her] personal situation*". Ms. IS-1516 stated that she would not be able to attend the hearing on 13 September 2006 as she had just started a new job and would be unable to get time off. She stated that she would have to take a full day off work to attend the hearing and that she was unable to do so as she was "*currently undergoing an intense training programme at work*". She stated that she would "*abide by the decision of the Committee as to the length of the ban*" and hoped that the Panel would "*take into account that [she] was under a lot of pressure due to [her] personal situation*".

22. The Panel replied to Ms. IS-1516 email of 5 September 2006 on 7 September 2006. In that letter, the Panel noted Ms. IS-1516 difficulty in attending the hearing on 13 September 2006. The Panel stated that to facilitate Ms. IS-1516 the Panel would be prepared to schedule the hearing for later in the evening to give Ms. IS-1516 an opportunity of travelling to Dublin to attend the hearing. The Panel stressed that it was very much in Ms. IS-1516 interest to do so as, while the Panel would take into account what Ms. IS-1516 had said in her email of 5 September 2006, the weight to be attached to that could well be affected by the Panel's inability to question Ms. IS-1516 in relation to the issues raised in her email. The Panel's letter was again copied to the IMAC.
23. The Secretary to the Panel then spoke with Ms. IS-1516 on 11 September 2006. It was again indicated to her that the Panel would be prepared to re-schedule the hearing to a later time on 13

September 2006. However, Ms. IS-1516 again confirmed that she would not be able to attend in person as she had started a new job. She also indicated that she would have difficulty in attending on a Sunday as she had a part time job. She confirmed that the only day on which she would be free to attend would be on a Saturday. However, the Panel ascertained that Mr. Baker on behalf of the IMAC would not be available on that coming Saturday due to prior commitments. It did not prove possible to re-schedule the meeting for any Saturday in the near future.

24. The Panel sent a further letter to Ms. IS-1516 by email on 13 September 2006 confirming the offers previously made on behalf of the Panel to facilitate Ms. IS-1516 attending at the hearing. The email referred to the difficulties in securing a date that suited both Ms. IS-1516 and Mr. Baker of the IMAC, notwithstanding the Panel's willingness to sit late in the evening or over the weekend to facilitate the parties to attend in person. The Panel's email referred to previous correspondence and to the delays on the part of Ms. IS-1516 in responding to that correspondence. It was noted that Ms. IS-1516 was happy that the hearing should proceed later that day and that she would participate by telephone at the hearing. Having regard to the difficulties which had been experienced in securing a date on which all of the parties could be present, the Panel decided that the best way of proceeding was for Ms. IS-1516 to participate at the hearing by telephone. However, the Panel's email of 13 September 2006 stated that if for any reason Ms. IS-1516 or any of the other parties believed, felt during the course of the hearing that they were disadvantaged in any way by the mode of hearing, then an objection could be raised and the Panel would deal with any such objection. The email further indicated the Panel reserved the right to adjourn the hearing for further evidence or to secure Ms. IS-1516 attendance in person at the meeting, if it believed that it was appropriate to do so. Finally, the email recorded the Panel's understanding from

previous communications with Ms. IS-1516 that she admitted the alleged anti-doping violation and that the sole issue for determination at the hearing before the Panel was the sanction to be imposed in respect of that violation. The composition of the Panel to conduct the hearing was notified to Ms. IS-1516 as it was the fact that the ISC had informed the Panel (on 12 September 2006) that it intended to attend at the hearing as an observer.

25. On the same date (13 September 2006) the Panel sent an email to Mr. Baker of the IMAC referring to the logistical difficulties in relation to the hearing. The email further referred to the considerable delays to date in the matter and noted the Panel's disappointment by the lack of response from both Ms. IS-1516 and the IMAC to previous correspondence. Mr. Baker responded to the email later on 13 September 2006 stating that he had only recently taken up the post as anti-doping officer with the IMAC and that he was concerned at the statement in the Panel's email concerning the lack of response from Ms. IS-1516 and the IMAC. Mr. Baker stated that he had discussed this with Mr. Dowling, his predecessor as anti-doping officer with the IMAC, and Mr. Dowling was not aware of any issue or item forwarded to him to which a reply issued. Mr. Baker's email stated that IMAC had at all times urged Ms. IS-1516 to comply and assist the process as much as was possible. Mr. Baker stated that the IMAC takes its anti-doping policy "*very seriously*", that all its athletes are amateur and receive no funding from the ISC or from any other national or international body. Mr. Baker's email further stated that in the last year the IMAC had over twenty tests all of which proved negative.

D. THE HEARING ON 13 SEPTEMBER 2006

26. The hearing took place on 13 September 2006 in accordance with the arrangements communicated to the parties in the

correspondence summarised above. The composition of the Panel at the hearing was David Barniville B.L. (who chaired the meeting), Dr Derek McGrath and Mr. Philip Browne. Mr. Baker appeared in person on behalf of the IMAC. Ms. IS-1516 participated at the hearing by way of a telephone conference call. Dr May and Mr. Rice attended as observers on behalf of the ISC. The Secretary of the Panel, Ms. June Mention, also attended. The hearing was recorded by Gwen Malone Stenography Services Limited and a transcript of the hearing is available.

27. The hearing commenced with the Chairman outlining the Panel's understanding that Ms. IS-1516 was admitting the anti-doping rule violation alleged against her and noting that the issue to be determined by the Panel was the appropriate sanction to be imposed. The Chairman went through the correspondence which preceded the hearing and explained the circumstances in which the hearing was proceeding in that way.
28. As the representative of the IMAC, the relevant national governing body, Mr. Baker explained that the Executive Committee of the IMAC had conducted a preliminary hearing some three months ago at which Ms. IS-1516 was provisionally suspended for a period of three months. He was uncertain as to the precise date but indicated that it was the first weekend in June 2006. It is assumed, therefore, that the meeting took place some time between 2 June 2006 and 5 June 2006 and that the provisional suspension commenced then or shortly thereafter. Mr. Baker stated that the IMAC takes very seriously its obligations under the Rules and accepts that breaches have to be dealt with and taken seriously both by the IMAC and by the athlete in question. Ms. IS-1516 indicated that she agreed with what Mr. Baker had said. Mr. Baker further confirmed that he was personally aware that Ms. IS-1516 had personal issues at home during the relevant period.

29. Ms. IS-1516 then addressed the Panel. She acknowledged that she did not submit the relevant whereabouts forms in time or at all. She stated that, as outlined in one of her previous emails, she was not receiving any correspondence at all in the period from November 2005 to May 2006. She stated that she was not "*really aware*" that she had to notify the ISC the fact that she was not training at all during that period. She stated that not only had she not been training but that she had not been competing either. She confirmed that she was not aware of the importance of notifying the ISC of her absence from training. In response to a question from the Chairman, Ms. IS-1516 referred to her "*domestic circumstances*" and stated that it was something that she would not "*like to air in public*". She went on to state that she left her home in [...] but did not do so willingly. She was out of the house from November 2005 to May 2006. She stated that it was around the start or the middle of May 2006 that she returned to her home address in [...]. She stated that she had competed in the [...] on [...] 2006.

Ms. IS-1516 stated, in response to a question from a member of the Panel, that she was not sure whether she received previous correspondence from the ISC between April 2005 and July 2005. She stated that her kick boxing instructor, Mr. [...], had filled out her whereabouts forms. She further stated that her instructor might have asked the ISC by email to send the whereabouts forms to him on a quarterly basis. It was subsequently confirmed at the hearing that the ISC sent an email to Mr. [...] on 10 May 2005 stating that all correspondence would be sent to Ms. IS-1516 home address. In response to a question from another member of the Panel, Ms. IS-1516 confirmed that she was not on any medication or on any specified substance that worried her or caused her concern. She further stated that, while correspondence may have been arriving at her home address, her mother did not hold on to the correspondence. This was the case not only in relation to

correspondence from the ISC but also from her bank and other personal correspondence. She stated that she did not even receive her bank statements. She explained that she was only now "*starting to get back to normal after difficulties within her family*". She explained that she was under a lot of pressure.

30. In response to further questions from the Panel, Ms. IS-1516 accepted that she received the registered letter sent by the ISC on 3 May 2005. She stated that with regard to the letter of 3 May 2005, she spoke with her coach, Mr. [...]. She stated that she remembered speaking with her coach about a written warning and that he advised her that he was in contact with the ISC and had requested that all whereabouts forms be sent directly to him. She accepted that the letter of 5 May 2005 was a first formal written warning and that it was a serious matter. She stated that she may have received further correspondence in June, July and August 2005 which had been sent to her house. Later in her evidence, Ms. IS-1516 stated that her coach had taken over the matter and he had said that he would fill out the whereabouts forms for her. She stated that she did not recall receiving the registered letter from the ISC on 8 August 2005, which was the second and final warning about her failure to submit whereabouts forms. She accepted that she may have received that letter but did not remember it. She stated that when she returned back to her home in May 2006 no correspondence whatsoever had been kept for her. She stated that at that point of her life she was not really worried about kick boxing. Ms. IS-1516 accepted that she had received correspondence from the IMAC prior to its decision to impose a provisional suspension on her and that she thinks she also had a telephone conversation with the IMAC at the end of May /early June 2006. Later, Ms. IS-1516 stated that she had not discussed the subsequent correspondence from the ISC in June, July and August 2005 with Mr. [...]. Mr. Baker confirmed that the IMAC had

contacted both Ms. IS-1516 and Mr. [...] after the ISC wrote to her on 25 May 2006.

31. Ms. IS-1516 confirmed, in response to a question from a member of the Panel, that she did not intend to compete for the rest of the year as she had been out for so long and that she was only starting to get her life "*back on track*". She was not really sure if she intended coming back at all. Ms. IS-1516 further confirmed that, if in the future she received correspondence from the ISC, she would treat it seriously and would respond promptly to it. She further confirmed that she would submit the whereabouts forms, if required, within the requisite time limits.
32. While the ISC was present, through Dr. May and Mr. Rice, purely as an observer, the Panel asked whether the ISC wished to add anything or whether there was any other relevant piece of information which it wished to convey to the Panel. The ISC confirmed that it did not wish to add anything.
33. Finally, Ms. IS-1516 confirmed that she understood that it was very important for an athlete to correspond with the ISC especially if the athlete was competing at international level. She confirmed that she took responsibility for the failure to submit the forms and for not informing the ISC of the fact that she was not training. She stated that she willingly admitted that it was negligent on her part not to do so.

E. THE DECISION

34. The Panel retired for a short time after hearing the evidence and submissions at the hearing on 13 September 2006. The Panel considered the evidence and the submissions made. The Panel noted that Ms. IS-1516 had accepted that she did not return the whereabouts forms the subject of the complaint and had admitted

the anti-doping violation alleged against her. The Panel considered all of the evidence and, in particular, the explanation offered by Ms. IS-1516 for not returning the forms. While the Panel noted that a considerable amount of correspondence had been sent by the ISC at a time when Ms. IS-1516 accepted that she was present at her home address, the Panel accepted Ms. IS-1516 evidence that she was going through considerable difficulties at home during that period and, subsequently, when she was required to leave her home between November 2005 and May 2006. The Panel considered it likely that Ms. IS-1516 had received the letters from the ISC in May, June, July and August 2005, prior to the time she left the family home in November 2005. The Panel was also satisfied that Ms. IS-1516 did speak with her coach, Mr. [...], at least about the first warning which was sent by the ISC on 3 May 2005. The Panel was also satisfied that this correspondence was sent at a time when Ms. IS-1516 was under considerable personal pressure at home. The Panel is satisfied on the evidence that it is likely that Ms. IS-1516 did not receive the letters from the ISC of 15 March 2006 and 19 April 2006 while she was away from the family home due to domestic difficulties. It is probable, however, that she did receive the letter of 25 May 2006 after she had returned home.

35. The Panel regards it as being important that Ms. IS-1516 accepted responsibility for the anti-doping rule violation alleged against her. The Panel was impressed with the fact that Ms. IS-1516 accepted that she had to take responsibility for failing to submit the quarterly whereabouts form for the period the subject of the alleged violation and that she accepted that she was negligent in not doing so. The Panel was also impressed at the fact that when referring to her domestic difficulties, Ms. IS-1516 did not seek to evade her personal responsibility for the failure to submit the quarterly whereabouts form for the period the subject of the alleged violation. The Panel was satisfied on the evidence that Ms. IS-1516 was going

through a difficult personal time and that, while not excusing the failure to submit the quarterly whereabouts forms for the relevant period, she did provide an explanation for this.

36. In all the circumstances, having regard to the evidence adduced before the Panel and the submissions made to the Panel by Ms. IS-1516 and by Mr. Baker on behalf of the IMAC, the Panel was satisfied that it would not be appropriate to impose a period of ineligibility by way of sanction in excess of the mandatory three month period referred to in Article 10.4.3 of the Rules. This was Ms. IS-1516 first violation and in those circumstances it was open to the Panel to declare a period of ineligibility of between three months and one year. The Panel felt that a period of three months was appropriate. Ms. IS-1516 had just completed a provisional suspension of three months imposed by the IMAC. That provisional suspension expired in early September 2006. The Panel was satisfied that it would not be appropriate to impose any further period of ineligibility on Ms. IS-1516.
37. The Panel would finally wish to emphasise that any breach of the Rules including a failure to comply with the requirement under the Rules to submit quarterly whereabouts forms is extremely serious. That is why, in the case of a second and subsequent violation, a mandatory period of two years' ineligibility is provided for under Article 10.4.3 of the Rules. The Panel also wishes to re-emphasise the point made earlier in this Decision that it is essential that both the athlete and the national governing body (in this case the IMAC) fully co-operates with the Panel and its Secretary in relation to the procedures provided for under the Rules. The Panel is strongly of the view that in future Ms. IS-1516 and any other relevant athlete and the IMAC should respond much more expeditiously to correspondence from the Panel and its Secretary.

Dated the ____ day of October, 2006

Signed on behalf of the Panel by

David Barniville B.L.

Chairman