

**DECISION**

issued by the

**IRISH SPORT ANTI-DOPING DISCIPLINARY PANEL**

sitting in the following composition:

Chairperson: Mr David Casserly, Barrister  
Panel Member: Dr Pat O'Neill, Medical Practitioner  
Panel Member: Mr Warren Deutrom, Sports Administrator  
Secretary to the Panel: Ms Nicola Carroll, Barrister

in the disciplinary proceedings between

**ATHLETICS IRELAND**, Dublin, Ireland  
represented by Beauchamps Solicitors

- Claimant -

and

**Athlete IS-1540**, Ireland

- Respondent -

## 1. PARTIES

1.1 Athletics Ireland (hereinafter referred to as the “Claimant” or “Athletics Ireland”) is the governing body of athletics in Ireland.

1.2 Mr IS-1540 (hereinafter referred to as the “Respondent”) is an athlete who competes in the sports [...]. The Respondent is a member of [...], an athletics club based in [...].

## 2. FACTUAL BACKGROUND

2.1 On [...] 2013, the Respondent participated in the competition of the [...], held in [...] (hereinafter referred to as the “Event”), and was subjected to an in-competition doping control.

2.2 The Respondent’s urine sample was analysed by the World Anti-Doping Agency (hereinafter referred to as “WADA”) accredited laboratory *Deutsche Sporthochschule Köln Institut für Biochemie* (hereinafter referred to as the “Köln Laboratory”).

2.3 On 9 August 2013, the Köln Laboratory produced the following report in relation to the Respondent’s sample:

*The sample has been analysed according to the 2013 Prohibited List of the World Anti-Doping Agency (WADA). Analyses are based on accredited mass spectrometric and immunological methods.*

*Adverse analytical finding*

*Substance:*

*3' - hydroxystanozolol glucuronide  
(S1.1. Anabolic Agents)*

*Detection of 3' - hydroxystanozolol glucuronide is consistent with the administration of the prohibited substance stanozolol.*

*SOP:*

*Detection of diuretics, plasma volume expanders, SARMs and acidic compounds in human urine by high performance liquid chromatography / mass spectrometry*

## 3. PROCEDURAL BACKGROUND

3.1 By letter of 15 August 2013, the Irish Sports Council (hereinafter referred to as the “ISC”) notified the Respondent of the Adverse Analytical Finding and the consequent alleged violation of the Irish Anti-Doping Rules (hereinafter referred to as the “Rules”). In the same letter, the ISC informed the Respondent of his rights and obligations arising out of the alleged breach, including his right to request the analysis of his “B” sample by 29 August 2013, in accordance with article 7.3.2.3 of the Rules. The Respondent was also informed that failure to request the analysis of the “B” sample within the applicable

deadline would result in such analysis being deemed waived according to article 7.3.2.3 of the Rules.

- 3.2 In the same letter, the Respondent was informed of his right to admit or deny the alleged anti-doping rule violation within fourteen days (i.e. until 5 September 2013) pursuant to article 7.3.2.8 of the Rules, and was informed that if he failed to admit or deny the anti-doping rule violation within such deadline, he would be deemed to have admitted the anti-doping rule violation pursuant to article 7.3.2.9 of the Rules.
- 3.3 By letter dated 15 August 2013, the ISC notified the Claimant of the Adverse Analytical Finding and, *inter alia*, informed the Claimant of its obligation to present the case against the Respondent before the Irish Sport Anti-Doping Disciplinary Panel (hereinafter referred to as the “ISADDP”), pursuant to article 8.4.2 of the Rules.
- 3.4 By letter dated 15 August 2013, the ISC informed the Secretary of the ISADDP of the Adverse Analytical Finding.
- 3.5 By letter dated 15 August 2013, the Claimant notified the Respondent that, as a consequence of the Adverse Analytical Finding, he was Provisionally Suspended in accordance with article 7.6.1 of the Rules.
- 3.6 Following receipt of the notification from the ISC, pursuant to article 8.3.2 of the Rules, the Chairperson of the ISADDP appointed a panel to consider this matter, which was constituted as follows (hereinafter referred to as the “Panel”):  
  
Chairperson: Mr David Casserly, Barrister  
Panel Member: Dr Pat O’Neill, Medical Practitioner  
Panel Member: Mr Warren Deutrom, Sports Administrator
- 3.7 By letter dated 30 August 2013, the ISADDP wrote to the Parties and, *inter alia*, informed them that pursuant to article 8.3.1 of the Rules, the Panel would adjudicate as to whether the Respondent had committed an anti-doping rule violation and, if so, what sanctions would be imposed. The ISADDP also reminded the Respondent of his right to admit or deny the alleged anti-doping rule violation and the consequences of failing to do so according to the Rules.
- 3.8 On 3 September 2013, the ISC informed the ISADDP that the Respondent had not requested the analysis of his “B” sample within the applicable deadline of 29 August 2013.
- 3.9 The Respondent did not confirm or deny the alleged anti-doping rule violation within the prescribed fourteen day deadline which had expired on 5 September 2013 and was therefore deemed to have admitted to the anti-doping rule violation pursuant to article 7.3.2.9 of the Rules.
- 3.10 By letter dated 10 September 2013, the ISADDP wrote to the Parties informing them that (i) the Panel had noted that the Respondent had been Provisionally Suspended by the Claimant on 15 August 2013; (ii) as per the Respondent’s request, arrangements were being made for an interpreter to be made available to him at the oral hearing (hereinafter referred to as the “Hearing”); (iii) the Respondent had not admitted or denied the alleged

anti-doping rule violation by 5 September 2013 and that, in those circumstances he was deemed to have admitted to the anti-doping rule violation alleged against him pursuant to article 7.3.2.9 of the Rules; and (iv) the Panel proposed to hold a telephone conference with the Parties on 12 September 2013 at 2pm in order for a procedural timetable and a date for the Hearing to be fixed.

- 3.11 On 12 September 2013, the Panel held a telephone conference with the Parties to discuss all procedural issues and fix a procedural timetable and the date of the Hearing. By letter of the same day, the Panel issued procedural directions to the Parties.
- 3.12 In accordance with the request of the Claimant, it was provided with a time limit of 19 September 2013 to file a written submission, and in accordance with the express agreement of the Parties, the Respondent was directed to file a written submission in response on or before 1 October 2013. Following a request by the Claimant, the Panel also directed that the Claimant would be entitled to file a second submission in response to that of the Respondent on or before 3 October 2013 and that the Respondent would be entitled to file a second and final submission in response to the Claimant's second submission on or before 7 October 2013.
- 3.13 The Panel also confirmed that the Hearing would take place at 3pm on 9 October 2013, which, in light of the procedural timetable agreed in consultation with the parties, was the earliest possible hearing date.
- 3.14 On 19 September 2013, the Claimant filed its written submission. On that same date, the ISADDP wrote a letter to the Respondent noting that he had been sent a copy of the written submission filed by the Claimant and reminding him that he should file his response on or before 1 October 2013.
- 3.15 The Respondent filed his written submission on 4 October 2013. Notwithstanding the delay in its filing, by letter dated 6 October 2013 the Panel informed the parties that in consideration of the circumstances, the Panel had exceptionally decided to admit the Respondent's submission to the file. In view of the late filing of the Respondent's submission, the Panel invited the Claimant to file a further submission on or before 7 October 2013 if it wished to do so.
- 3.16 On 7 October 2013, the Claimant requested an extension of the deadline to file its submission until 12 noon on 8 October 2013. On the same day, the Panel granted the Claimant's request and fixed a deadline of 12 noon on 9 October 2013 for the Respondent to file any final submission in response, if he wished to do so.
- 3.17 On 8 October 2013, the Claimant filed its second submission. The Respondent did not file any further submission.
- 3.18 Following the filing and exchange of written submissions, the Hearing was held on 9 October 2013 at Frederick House, 19 South Frederick Street, Dublin 2. In addition to the Panel, the Secretary to the ISADDP and the stenographer, the following people were in attendance at the Hearing:

Claimant: Mr Aidan Healy, Solicitor  
Mr Gabriel Daly, Solicitor

Mr John Foley, Chief Executive of Athletics Ireland  
Mr Peter Hanlon, Board Member of Athletics Ireland

Respondent: Mr IS-1540  
Mr D. , Interpreter

Observers: Dr Una May, Irish Sports Council  
Mr José Luis Andrade, Legal Intern

- 3.19 Both Parties gave oral presentations at the Hearing and each member of the Panel posed questions to the Parties. At the conclusion of the Hearing, both Parties confirmed that they were satisfied with the conduct of the Hearing and the Panel advised the parties that it would issue a reasoned decision within two weeks.

#### **4. PARTIES' SUBMISSIONS**

##### **4.1 Parties' Requests for Relief**

- 4.1.1 In its written submission of 19 September 2013, the Claimant requested that the Respondent be sanctioned with a two year period of ineligibility, with effect as of the date of the decision of the Panel. The Claimant accepted, however, that the period during which the Respondent had been Provisionally Suspended should be credited against the period of ineligibility. The Claimant repeated its request for relief in its second written submission and confirmed it during the Hearing.
- 4.1.2 The Respondent did not make any express request for relief, either in his written submission of 4 October 2013 or in his oral statements during the Hearing.
- 4.1.3 The Parties relied on the following oral and written submissions in support of their positions. The following description of the Parties' respective submissions is not intended to be a comprehensive report of all submissions made to the Panel, but rather a discussion of the most relevant parts of such submissions. The Panel has, however, considered all submissions made by the Parties before issuing the present decision.

##### **4.2 Claimant's Submissions**

- 4.2.1 The Claimant made, *inter alia*, the following written submissions in support of its request for relief:

*The letters of 15<sup>th</sup> August 2013 enclosed a report from the Council's laboratory (...), identifying the presence of a Prohibited Substance or its Metabolites or Markers in a Sample of the Athlete's urine collected in In-Competition Testing on the [...] 2013. This is called an Adverse Analytical Finding.*

[...]

*Article 10.3 is not applicable here as it only applies to Prohibited Substances which are also Specified Substances. Stanazolol is a Prohibited Substance but is not a Specified Substance.*

*Article 10.4 allows the elimination or reduction of a period of ineligibility in truly exceptional circumstances. Both Articles 10.4.1 (No Fault or Negligence) and 10.4.2 (No Significant Fault or Negligence) require the Athlete to establish how the Stanozolol entered his system.*

[...]

*We submit that he (sic) Athlete has not established on the balance of probability how the Prohibited Substance entered his body.*

*If the Panel (...) finds that the Athlete has established on the balance of probability how the Prohibited Substance entered his body, the Panel may wish to consider whether the Athlete acted with No Significant Fault or Negligence.*

[...]

*We submit that the Athlete will not be in a position to establish No Significant Fault or Negligence.*

*The starting point for athletes is that they are responsible for what they ingest. Article 2.1.1 of the Rules provides:*

*“It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body and the Athlete is responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in his or her Sample. Accordingly, it is not necessary that intent, fault, negligence or knowing Use of an Athlete (sic) on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation under Article 2.1; nor is the Athlete’s lack of intent, fault, negligence or knowledge a valid defence to an allegation that an anti-doping rule violation has been committed under Article 2.1”.*

*Article 1.3 sets out the roles and responsibilities of athletes, one of which is “to take responsibility, in the context of anti-doping, for what they Use.”*

[...]

*The Athlete made the choice to take a significant array of supplements and other products (only a minority of which are declared on the Doping Control Form of [...] 2013). He kept those supplements and products in the same place as bottles of stanozolol were kept. Instead of taking personal responsibility for what he ingested, he abdicated that responsibility to his wife whom he says knows nothing about supplements.*

*Clearly, any argument that this level of fault or negligence was not significant in relationship to the anti-doping rule violation is not sustainable.*

*[The Claimant] submits that a decision by the Panel which reduces a sanction for an athlete who claims he intentionally ingested a cocktail of supplements prepared by someone without any knowledge of supplements from a*

*press/cupboard containing bottles of anabolic steroids may set a dangerous precedent or create a loophole.*

[...]

*The period of ineligibility shall start on the date of the decision of the Panel. The Athlete did not promptly admit to the anti-doping rule violation after the letter from the Council of 15<sup>th</sup> August 2013 and Article 10.7.2 (which provides for the commencement of the period of Ineligibility on the date of Sample collection ( [...] ) is not applicable.*

*However, the Athlete was Provisionally Suspended as of 15<sup>th</sup> August 2013 and is entitled to credit from that date until the date of the Panel's decision as regards the period of ineligibility.*

4.2.2 During the Hearing, the Claimant submitted, *inter alia*, as follows:

- Stanazolol is a hardcore prohibited substance, an anabolic steroid, and the starting point in terms of sanction is a period of ineligibility of two years.
- The Respondent did not give any corroborating evidence in addition to his written submission and his oral explanations to support his version of events.
- The Claimant does not accept the veracity of the factual description of events provided by the Respondent and it is incumbent upon the Respondent to demonstrate, on the balance of probabilities, that his description of events is accurate.
- The Respondent claims to have requested his wife (an inexperienced person as far as nutritional supplements are concerned) to prepare his cocktail of supplements and he knew that he had stored a bottle of stanozolol pills in the same place as those supplements. Even if the Panel was to accept the Respondent's version of events as being factually accurate, he still would not be entitled to the elimination or reduction of a sanction pursuant to articles 10.4.1 (No Fault or Negligence) or 10.4.2 (No Significant Fault or Negligence) of the Rules, as he was substantially and significantly at fault and substantially and significantly negligent for the anti-doping rule violation.

4.2.3 In response to questioning from the Panel, the Claimant made the following additional statements:

- The Respondent did not receive any one-on-one education or training regarding doping matters, but the Claimant's web-site has a section for anti-doping which deals with a number of anti-doping issues and has a link to the Sports Council web-site, which includes the list of Prohibited Substances.
- On the entry form to certain competitions, such as the 2012 [...] which was won by the Respondent, the Rules are referred to and athletes are informed that anti-doping controls would be conducted and that they should make themselves familiar with the rules which are available on the internet.

### 4.3 Respondent's Submissions

#### 4.3.1 The Respondent made the following statements in his written submission of 4 October 2013:

*[...] 2013 urine samples were taken of me, which were detected in material called 3-hydroxystanozolol glucoronide (stanozolol). I would like you to explain how these appeared on my body. The point is that I use a number of food supplements that are on my food ration. They are : creatine, protein, amino acids, pre-workout and post-workout mixes, sleep enhancers, vitamins, bcaa, joint activity enhancers. And all of this consists of a single day, I consume about 27-34 pills a day plus mixes. The tablets are very large and in order not to burden stomach as they particleboard with blender until powdered, the faster and more easily assimilated by an organism. I consider all of my supplements in one place and among them were several little bottle with stanozolol pills wich [sic] gave me one of the familiar leaving from Ireland to [...].*

*When I went to work I just asked my wife to ground them with blender until powdered for few more days, than I don't need to spend my own time. I miscalculated how much and what supplements I will need till championship. She crushed tablets, and together with them those few pills from stanozolol bottle, because she did not know anythink [sic] about sport supplements. So, that's how I took those tablets without any knowledge. It occurred completely accidentally, by big mistake. I do not want nothink [sic] to blame, I am guilty myself for what happened. I sincerely regret that this happened.*

#### 4.3.2 At the outset of the Hearing, the Respondent was invited by the Panel to confirm or clarify certain elements of his written statement, with the assistance of the interpreter. This exercise led to, *inter alia*, the following amendments and additions to his written statement:

- Mr IS-1540 takes several supplements and some of them are in the form of tablets, so he crushes them into powder so as to not overload the stomach.
- He stores all his supplements on the same shelf in his home.
- The stanozolol pills were given to him, along with several nutritional supplements, by an acquaintance of his from his gym in [...], who was leaving Ireland to return to the [...].
- He received only one bottle of stanozolol pills, rather than several.
- In relation to the statement “*I miscalculated how much and what supplements I will need till championship*”, the Respondent clarified that what he intended to say that he ‘*estimated* the amount of supplements that he needed to take’.
- He specified that he did not want to blame his wife for what had happened.
- The bottle containing stanozolol pills was not full, but rather contained approximately 12-14 pills.
- He knew that the bottle contained stanozolol pills.

#### 4.3.3 In response to questioning from the Panel, the Respondent made the following additional statements:



- He commenced competitive sport in [...] .
- He had never received any anti-doping education and everything he knows about the subject is the result of his own research.
- Before these proceedings he already knew what stanozolol was and that it was prohibited in most sports.
- The stanozolol pills that were given to him by his friend were contained in a bottle that was inside a plastic bag with various supplements.
- Stanozolol was marked on the bottle.
- He received the stanozolol pills by approximately the end of 2012 and the bottle had therefore been kept at his home for at least 7 months.
- He did not intend to use stanozolol and he was thinking of throwing the bottle of pills away, or giving it to a friend who did bodybuilding, but he decided to keep it because he could potentially use it in the future for bodybuilding after ending his career in athletics.
- He asked his wife to prepare his mix of supplements so that he could save time and instructed her to include what remained of several substances into one mix. His wife then prepared the mixture and included the stanozolol pills. He acknowledged that his wife did not know what she was mixing, as she does not have much experience with supplements, and that it was unsafe to ask her to prepare his blended mix of supplements.
- He realised before the Event that he had ingested stanozolol.

## **5. PROCEDURAL ISSUES**

### **5.1 Jurisdiction of the Panel**

- 5.1.1 The general jurisdiction of the ISADDP, and the specific jurisdiction of the Panel, which arises from the Respondent's membership of Athletics Ireland and which is provided for in the Rules, is not in dispute.

### **5.2 Admissibility of the Parties' Submissions**

- 5.2.1 The Claimant filed its written submissions (both the first and the second submission) in a timely manner.
- 5.2.2 The Respondent filed his written submission three days after the prescribed time limit. Notwithstanding this delay, having considered all the relevant circumstances, including the lack of any objection by the Claimant, the Panel admitted the Respondent's submission to the file.

## **6. SUBSTANTIVE ISSUES**

### **6.1 Provisional Suspension**

- 6.1.1 Article 10.7.3 of the Rules provides as follows:

*10.7.3.1 If a Provisional Suspension is imposed and respected by the Athlete, then the Athlete shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed.*

*10.7.3.2 If an Athlete voluntarily accepts a Provisional Suspension in writing and thereafter refrains from competing, the Athlete shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Athlete's voluntary acceptance of a Provisional Suspension shall be provided at the beginning of such period to the Irish Sport Anti-Doping Disciplinary Panel.*

*10.7.3.3 No credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension.*

6.1.2 The undisputed evidence before the Panel is that the Respondent has been serving a Provisional Suspension since 15 August 2013.

## 6.2 **Breach of Irish Anti-Doping Rules**

6.2.1 Article 2 of the Rules provides as follows:

*Each of the acts or omissions set out in Articles 2.1 to 2.8 below shall constitute an anti-doping rule violation under these Rules:*

*2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. An Athlete is responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in his or her Sample. 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; nor is the Athlete's lack of intent, fault, negligence or knowledge a valid defence to an allegation that an anti-doping rule violation has been committed under Article 2.1.*

*2.1.2 Proof of either of the following is sufficient to establish an anti-doping rule violation under Article 2.1 to the standard required by Article 8.4.1.*

*2.1.2.1 The presence of a Prohibited Substance or any of its Metabolites or Markers in the Athlete's A Sample, where the Athlete waives analysis of his or her B Sample and the B Sample is not analysed;(...)*

6.2.2 It is undisputed that 3-hydroxystanozolol glucoronide (stanozolol) is a Prohibited Substance and was detected in the Respondent's A sample. It is also undisputed that the Respondent did not request that the B sample be analysed.

6.2.3 The Respondent did not confirm or deny the alleged anti-doping rule violation within the relevant deadline and was therefore deemed to have admitted to the anti-doping rule violation pursuant to article 7.3.2.9 of the Rules.

6.2.4 As set out above, the Respondent admitted the ingestion of stanozolol in his written and oral submissions.

6.2.5 In light of the above facts, the Panel concluded that the Respondent did commit an anti-doping rule violation, pursuant to Article 2.1 of the Rules.

### 6.3 **Appropriate Sanction**

6.3.1 Having determined that the Respondent did commit an anti-doping rule violation pursuant to Article 2.1 of the Rules, the Panel considered what was the appropriate sanction for such an anti-doping rule violation.

6.3.2 Article 10.1 of the Rules provides as follows:

*The period of Ineligibility imposed for a first violation of Article 2.1, Article 2.2 or Article 2.6 shall be two (2) years' Ineligibility, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Articles 10.3 and 10.4, or the conditions for increasing the period of Ineligibility, as provided in Article 10.5, are met.*

6.3.3 Given that it has been established that the Respondent committed an anti-doping rule violation pursuant to article 2.1 of the Rules, the appropriate sanction is, in principle, a two-year period of ineligibility. However, Article 10.1 of the Rules provides for the possibility of such period of ineligibility to be eliminated, reduced or increased.

6.3.4 In light of the submission presented by the Respondent, the Panel considered whether the present case was one in which an elimination or reduction of the standard Period of Ineligibility could be considered based on exceptional circumstances, pursuant to Articles 10.4.1 and 10.4.2 of the Rules.

6.3.5 Articles 10.4.1 and 10.4.2 of the Rules provide as follows:

*10.4.1 If an Athlete establishes in an individual case that he or she bears No Fault or Negligence, the otherwise applicable period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility eliminated. In the event this Article is applied and the period of Ineligibility otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 10.6.*

*10.4.2 If a Participant establishes in an individual case that he or she bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than*

*eight (8) years. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility reduced.*

6.3.6 According to the wording of articles 10.4.1 and 10.4.2, the elimination or reduction of a period of ineligibility based on exceptional circumstances can only be considered in cases where the Respondent can establish both (1) how the Prohibited Substance entered his system and (2) that he bears No Fault or Negligence or No Significant Fault or Negligence.

6.3.7 It is the Panel's view that the Respondent did not establish both of those cumulative conditions in the present case.

a) How the Prohibited Substance entered the Respondent's system

6.3.8 The Panel was not required to make any finding regarding how the Prohibited Substance entered the Respondent's system, due to its finding, set out below, that the Respondent bore Significant Fault.

b) Absence of Fault or Negligence or Significant Fault or Negligence

6.3.9 WADA's official comment on articles 10.5.1 and 10.5.2 of the WADA Code (which correspond to articles 10.4.1 and 10.4.2 of the Rules) states that "*Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases*". The CAS has stated in this regard that:

*"No fault" means that the athlete has fully complied with the duty of care. (...) "No significant fault" means that the athlete has not fully complied with his or her duties of care. The sanctioning body has to determine the reasons which prevented the athlete in a particular situation from complying with his or her duty of care. For this purpose, the sanctioning body has to evaluate the specific and individual circumstances. However, only if the circumstances indicate that the departure of the athlete from the required conduct under the duty of utmost care was not significant, the sanctioning body may (...) depart from the standard sanction".<sup>1</sup>*

6.3.10 In order to illustrate what "exceptional circumstances" could consist of, the Panel refers to the comment to articles 10.5.1 and 10.5.2 of the WADA Code (which correspond to articles 10.4.1 and 10.4.2 of the Rules) which state as follows:

*To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor.*

*Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Athletes*

---

<sup>1</sup> CAS 2009/A/2012 Doping Authority Netherlands v/ Mr Nick Zuijkerbuijk paragraph 53.

*are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink).*

*However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.)*

6.3.11 The ITF Independent Anti-Doping Tribunal discussed the meaning of the word “Significant” in a 2006 decision<sup>2</sup>, in which it stated that the word ‘significant’, “*in its context connotes a lack of serious or substantial moral fault or blameworthiness, so that the rigorous application of these very strict anti-doping rules is tempered in the case of an excusable and understandable failure to have foreseen or prevented the doping offence where the conduct of the player was not particularly culpable, but failed to meet the standard of utmost caution. In either case, no fault or no significant fault, the circumstances have to be truly exceptional. Again these exceptions have to be restrictively applied to prevent the principle of strict liability being eroded, so that the exception becomes the norm*”.

6.3.12 When discussing this issue in a 2012 decision<sup>3</sup>, a CAS Panel made the following declaration:

*“The Panel should only add that it is not a consequence of its conclusion that no sportsman can safely take a drink when offered to him by his wife in the family home. The prudent sportsman would have reminded his wife or partner of the obligations attended upon participation in modern professional sport.”*

6.3.13 In the present case, it should be noted that even if the Respondent's version of events was accepted in its entirety by the Panel, the Respondent has testified that his wife did not know or understand what she was mixing when she was preparing his mix of supplements.

6.3.14 In addition, the Respondent himself has acknowledged that it was unsafe to ask his wife to prepare his blended mix of supplements, especially as he was storing stanozolol on the same shelf as his supplements for over seven months.

<sup>2</sup> See ITF and Roy Mariano Hood, ITF Independent Anti-doping Tribunal, paragraph 18, 8 February 2006.

<sup>3</sup> See CAS 2012/A/2759 Rybka v. UEFA, paragraph 11.44

- 6.3.15 Furthermore, it was clear from the Respondent's testimony at the Hearing that the instructions he claims to have given his wife regarding the preparation of his supplement mix were not particularly clear, and did not include any warnings or precautions that would eliminate, or even reduce, the risk of her including the stanozolol pills in his supplement mix.
- 6.3.16 The Panel also found it noteworthy that (i) the Respondent did not make a full disclosure on his doping control form regarding all the substances he was ingesting and (ii) he decided to participate in the Event despite being aware that he had ingested a Prohibited Substance.
- 6.3.17 In light of the above facts, the Panel concluded that, even if it was accepted that the version of events described by the Respondent was accurate, the Respondent did not demonstrate that there had been No Fault or Negligence, or No Significant Fault or Negligence, on his part. Therefore, the Respondent would not be entitled to any reduction of the period of ineligibility pursuant to Articles 10.4.1 or 10.4.2 of the Rules.
- 6.3.18 Having considered all the Parties' submissions, and after careful deliberation, the Panel concluded that a two-year period of ineligibility is an appropriate sanction in the present case.
- 6.3.19 Therefore, the Panel concluded as follows:
- (i) pursuant to article 9.1 of the Rules, the Respondent's results at the [...] held in [...] on [...] 2013 are Disqualified;
  - (ii) pursuant to article 9.3 of the Rules, any results obtained by the Respondent between [...] 2013 and [...] 2013 are Disqualified;
  - (iii) pursuant to article 10.1 of the Rules, the Respondent shall be Ineligible for a period of two years. However, as the Respondent was Provisionally Suspended on 15 August 2013, he is entitled to credit for the period from that date until the date of this decision.

## 7. COSTS

7.1 Article 8.2.2 of the Rules provides as follows:

8.2.2 *The Irish Sport Anti-Doping Disciplinary Panel has all powers necessary for, and incidental to, the exercise of its functions except that the Irish Sport Anti-Doping Disciplinary Panel shall not have the power to award costs save where:*

8.2.2.1 *the Irish Sport Anti-Doping Disciplinary Panel has decided that a Participant did not commit the alleged anti-doping rule violation; and*

8.2.2.2 *the Irish Sport Anti-Doping Disciplinary Panel considers it appropriate to award some or all of his or her costs to the*

*Participant, having considered all the circumstances of the case.*

- 7.2 Due to the absence in the present case of the conditions set out in articles 8.2.2.1 and 8.2.2.2, the Panel makes no order as to costs.

**ON THESE GROUNDS**

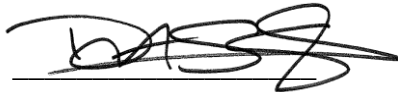
The Irish Sport Anti-Doping Disciplinary Panel rules that:

1. Mr IS-1540 committed a breach of article 2.1 of the Irish Anti-Doping Rules.
2. Mr IS-1540 is declared Ineligible for a period of two years, until 14 August 2015.
3. All results obtained by Mr IS-1540 at the [...] of [...] 2013, and all subsequent results obtained by Mr IS-1540 until 15 August 2013, are Disqualified, with all resulting consequences, including forfeiture of any medals, titles, points and prizes.

Seat: Dublin

Date: 23 October 2013

**THE IRISH SPORT ANTI-DOPING DISCIPLINARY PANEL**

A handwritten signature in black ink, appearing to read 'DASSERLY', written over a horizontal line.

Mr David Casserly  
Chairperson