

At the Headquarters of the Malta Sports Council, Cospicua

Decision of the National Anti-Doping Disciplinary Panel

Ref: 06/2012/NADDP

Anti-Doping Commission (Malta)

Vs

Lee Ross (Basketball Player with Identity Card Number 025889M)

The National Anti-Doping Disciplinary Panel (hereinafter the 'Panel') consisting of Dr Carmel Cascun as Chairman, and Notary Dr Sue Mercieca and Ms Joanna Vella as members,

Before the commencement of these procedures, Not Dr Sue Mercieca and Ms Joanna Vella declared to the Chairman that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The same declaration was made by the Chairman.

Considered the Request (Ref No: 1TSTLEEROSS/13) made by the National Anti Doping Commission on the 27th December 2012 (Dok ADC1) to the Chairman of the 'Panel' to schedule a sitting for the hearing of a case concerning an alleged breach of the Anti-Doping Regulations, 2011 (LN 281/2011, Sports Act, Chapter 455, Laws of Malta) by Basketball Player Lee Ross.

Took note and reviewed all the documents that were forwarded to the 'Panel' by the Chairperson, Anti-Doping Commission, including principally the following:

- Request to the 'Panel' to schedule an anti-doping disciplinary hearing dated 27th December 2012 (Doc ADC1);
- Doping Control Form dated 18th November 2012 (Doc ADC20)
- Email message from Manolis Lyris PhD of Olympic Athletic Center of Athens 'Spyros Louis' dated 12th December 2012 (Doc ADC19);
- Analysis Report numbered 10701_2 issued by Olympic Athletic Center of Athens 'Spyros Louis' dated 12nd December 2012 (Doc ADC18);
- Initial Review by the NADO regarding Adverse Analytical Finding signed by the Chairperson Anti-Doping Commission (Ref No. 1TSTLEEROSS-12/1) (Doc ADC13);
- Notification of Adverse Analytical Finding addressed by the Chairperson Anti-Doping Commission to Lee Ross on the 17th December 2012 (Ref No. 1TSTLEEROSS-12/3) (Doc ADC17);

- Report of Adverse Analytical Finding (Ref No. 1TSTLEEROSS-12/4) (Doc ADC16);
- Request for the 'B' Sample Analysis (Ref No. ITSTLEEROSS-12/6) (Doc ADC15);
- Letter by the Chairperson Anti-Doping Commission dated the 17th December 2012 to the President of the National Association (i.e. Malta Basketball Association) following an Adverse Analytical Finding (Doc ADC10);
- Letter of acceptance for provisional suspension (Doc ADC 4);
- Letter of request 'form' for provisional hearing (Doc ADC 12);
- Letter containing the provisional suspension issued by the Malta Basketball Association to Lee Ross dated 20th December 2012 (Doc ADC 5);
- Email correspondence of 27th December 2012 between from Mr Ignatius Zammit and Dr Manolis Lyris canceling the B sample analysis (Doc ADC 2);
- Receipt of Delivery of Letters Ref No 1TSTLEEROSS-12/0.1) signed by Lee Ross dated 18th December 2012 (Doc ADC 14);
- Undated receipt of Delivery of Letters Ref No 1TSTLEEROSS-12/0.2) signed by Joseph Muscat (Doc ADC6);
- Email from Mr Ignatius Zammit to Hon David Agius regarding positive anti-doping case (DOK ADC 11a);
- Acknowledgement of email on 18th December 2012 by Hon David Agius (Doc ADC 8);
- Email correspondence on 18th December 2013 between Mr Ignatius Zammit and Mr Kerwin Clarke of WADA concerning the WADC Result Management (Doc ADC 9) ;
- Letter of Notification of the hearing issued by the Chairman NADDP to athlete Lee Ross on the 8th January 2013 for him to appear before the 'Panel' on the 21st January 2013 copy of which has also been forwarded to the Anti-Doping Commission, the Malta Basketball Association, and the Malta Sports Council and Siggiewi Basketball Club (Doc ADCA1);
- Letter of reschedule of the hearing issued by the Chairman NADDP to athlete Lee Ross dated 21st January 2013 (Doc ADC A2);

Heard and took note of the evidence given under oath during the hearing of the 6th February 2013 held at the Cottonera Sports Complex, Cospicua by Mr Lee Ross (the athlete charged with the anti-doping breach).

Heard and took note of the submissions and comments made during the hearing by advocate Dr Peter Fenech retained by the Anti-Doping Commission;

Heard and took note of the submissions and comments made during the hearing by Mr Alan Chircop representative of the Siggiewi Basketball Club who also assisted Mr Ross;

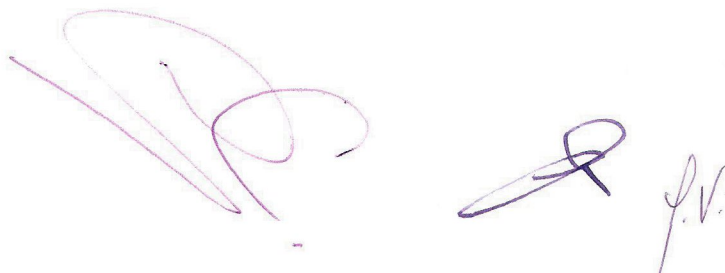
During the sitting held at the Cottonera Sports Complex, Cospicua on the 6th February 2013 at 16.00 hours the parties agreed that the Panel's decision is to be written in English.

1. Preliminaries

- 1.1 In the case under review Lee Ross, who is registered as a basketball player with the Malta Basketball Association, at about 18.11 hours on the 18th November 2012 was asked to provide a urine sample 'in-competition' immediately after a league basketball match.
- 1.2 According to the procedures the 'Doping Control Form' was completed (Doc ADC20). On the 18th November 2012 at about 18.36 hours a urine sample of 100 ml volume was collected from Lee Ross, and when requested to list "any prescription/non-prescription medications or supplements taken over the past 7 days and any transfusions received over the last 6 months" Ross's answer was: "No No". Lee Ross's urine sample was sealed in two containers marked 'A' and 'B'.
- 1.3 The urine samples were sent to a WADA¹ accredited laboratory at the Olympic Athletic Center of Athens 'Spyros Louis'. On the the 12nd December 2012 this laboratory issued its analysis report number 10701_2 under the signature of Laboratory Director Dr Manolis Lyris PhD. In this report, *inter alia*, it was declared that:
- Event/status of Control: In Competition Testing
 - Sport: Basketball
 - Type of Sample: Urine
 - Chain of Custody Status: According to WADA specifications
 - Sample Code: A436018
 - Sex: Male
 - Substance Identified: Δ 9-tetrahydrocannabinol**
 - ** Δ 9-tetrahydrocannabinol is a cannabinoid (S8 Wada Prohibited List). The analysis of the above sample has shown the presence of 11-Nor-9-carboxy- Δ 9-tetrahydrocannabinol, Cannabis metabolite, at a concentration higher than 30ng/ml, which is greater than the DL (decision limit) of 19ng/ml.
 - Result: Adverse Analytical Finding
- 1.4 According to the 2012 Prohibited List² as published by WADA class S8 Cannabinoids: whereby synthetic delta 9-tetrahydrocannabinol (THC) is prohibited.
- 1.5 On the 17th December 2012 Lee Ross was informed that a prohibited substance was detected in the urine sample that was collected from him on the 18th November 2012 (Doc ADC17). Mr Ross was also given a Report of Adverse Analytical Finding (Doc ADC16) in which it was stated that Δ 9-tetrahydrocannabinol was identified in his urine sample. It was added that 11-Nor-9-carboxy- Δ 9-tetrahydrocannabinol, cannabis metabolite, was noted in the sample at a concentration higher than 30ng/ml, which is greater than the decision limit of 19ng/ml. This was also mentioned in the laboratory analysis report issued by Dr Manolis Lyris on the 12th December 2012.

¹ World Anti-Doping Agency

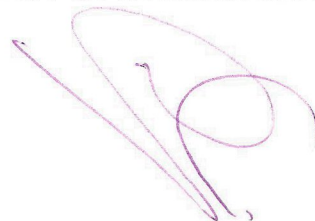
² The World Anti-Doping Code, The 2012 Prohibited List (published on 24th August 2011 effective as from 1st January 2012).



- 1.6 On the 17th December 2012 Mr Ross was also told that the presence of such a prohibited substance or its metabolites or markers in an athlete's sample was in violation of the WADA Code (Art 2.1) and LN 281/2011 (Art 3.3) of the Laws of Malta. Furthermore Lee Ross was informed of the possible consequences which such a breach may attract in terms of the WADA Code (Art 10.1 and Art 10.2) and LN 281/2011 (Art 11.1 and Art 11.2).
- 1.7 Also on the 17th December 2012, the Chairperson of the Anti-Doping Commission informed the President of the Malta Basketball Association of the Adverse Analytical Finding concerning Lee Ross (Doc ADC10). In turn the Secretary General of the Malta Basketball Association on the 20th December 2012 notified Mr Ross that the Malta Basketball Association (MBA) is "provisionally suspending you from all Basketball Activities with immediate effect" (Doc ADC5).
- 1.8 Although Lee Ross was given the opportunity to request the analysis of Sample 'B' by the 27th December 2012, Mr Ross did not exercise such a right.
- 1.9 Mr Ross accepted the provisional suspension imposed on him by the Malta Basketball Association (Dok ADC14).

2. The Merits and Considerations

- 2.1 During the proceeding Lee Ross explained that for him playing basketball was merely a hobby. Furthermore he added that he was not aware that the substance (cannabis) was a substance prohibited by the Anti-Doping Regulations, adding also that in his opinion the substance does not enhance performance.
- 2.2 The athlete admitted that he had taken the substance on a Saturday, which happened to be the day before he was tested for doping on the 18th November 2012, and this was the reason why the substance was found in relatively high quantities in the sample taken from him.
- 2.3 According to Mr Chircop of Siggiewi Basketball Club, Lee Ross joined the Club in September 2012. Mr Chircop added that although the Malta Basketball Association intended to hold session to educate member clubs and athletes about Anti-Doping Regulations, they have not as yet started, and consequently the athletes and the clubs do not have sufficient knowledge about the subject.
- 2.4 The Panel is again very disappointed to hear such statements, and surely we urge all national sports associations and sports organizations to make athletes and officials familiar with Anti-Doping Regulations and the WADA Code. However this alleged lack of knowledge does not exonerate the athlete from responsibility in the event of a breach of anti-doping regulations. Art 3(1) and Art 3(2) of the Anti-Doping Regulations (L N 281/2011) provide that athletes "shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which



have been included in the prohibited list”, “it is each athlete’s personal duty to ensure that no prohibited substance enters his body”, “athletes are responsible for any prohibited substance.....found to be present in their samples”. And furthermore 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.

2.5 However since the Panel notes that Mr Ross had collaborated with his club and also pledged not to use the prohibited substance in the future, the Panel accepts this as a mitigation for the reduction of the period of ineligibility as provided by Art10.4 of the WADA Code and 11.4 of the Anti Doping Regulations (LN281/2011).

2.6 Furthermore the Panel is satisfied that Lee Ross did not intend to enhance his sport performance or mask the use of a performance enhancing substance.

3. The Decision

The National Anti-Doping Disciplinary Panel decides this anti-doping case brought by the National Anti-Doping Commission against the athlete Mr Lee Ross by finding:

- That Mr Lee Ross has breached the Anti-Doping Regulations, 2011 (Art 3(3)) and the WADA Code (Art 2.1) as the prohibited substance ‘ Δ 9 tetrahydrocannabinol’ (a cannabinoid) has been found in Lee Ross’s urine sample that had been collected from him ‘in-competition’ on the 18th November 2012.
- And therefore the National Anti-Doping Disciplinary Panel as provided by the Anti-Doping Regulations, 2011 Art (11) 4 and the WADA Code Art 10.4 is imposing on the athlete Lee Ross a suspension of ineligibility from any sports activities for a period of six (6) months commencing from the date of his provisional suspension on the 20th December 2012.

Dr Carmel Cascun

Dr Sue Mercieca

Ms Joanna Vella

This 15th day of March 2013

at Cospicua, Malta