

INTERNATIONAL OLYMPIC COMMITTEE

**IOC DISCIPLINARY COMMISSION
DECISION**

**REGARDING DUANE ROSS
BORN ON 5 DECEMBER 1972, ATHLETE, UNITED STATES OF AMERICA, ATHLETICS**

1. Mr. Duane Ross (hereafter the “**Athlete**”) competed in the 2004 Athens Olympic Games (hereafter the “**Athens Olympic Games**”) in the men’s 110m hurdles event, in which he placed 5th in the semi-final heat.
2. In April 2010, the IOC received correspondence from the United States Anti-Doping Agency (“**USADA**”), indicating that USADA notified the Athlete on three separate occasions - on 2 November 2009, 16 December 2009 and 13 January 2010 – that USADA received evidence that the Athlete “used banned performance enhancing drugs prior to November 2001 outside the eight-year limitations period and then used banned performance enhancing drugs within the limitations period during 2001, 2002 and 2003.”
3. USADA informed the IOC that all three notification letters were sent via UPS and delivered to the Athlete’s front door but the Athlete did not confirm receipt. USADA also sent the last notification letter via certified mail; however, this letter was never picked up. USADA further sent all correspondence to the email address USADA had on file for the Athlete and did not receive a bounce back email.
4. USADA further informed the IOC that prior to initiating proceedings against the Athlete, and before sending the first notification letter of 2 November 2009, USADA telephoned the Athlete and informed him over the phone of the proceedings USADA was initiating, advising him that USADA would be sending a notification letter to his residence.
5. USADA confirmed to the IOC that correspondence to the Athlete was sufficient notice under USADA’s Protocol, which permits delivery of notice to the last address on file for an athlete.
6. The Disciplinary Commission noted that USADA notified the Athlete that he was being charged with “participat(ing) in a conspiracy to trade in and facilitate the use of substances and techniques which were either undetectable or difficult to detect in routine drug testing, and/or that (he) used, attempted to use, conspired to use, admitted the use of, assisted or incited others to use /and/or admitted such assistance or incitement), possessed, administered or attempted administration of prohibited drugs, methods or techniques.” USADA further charged that the Athlete “assisted, encouraged, aided, and/or abetted and covered up or attempted to cover up violations of the Applicable Rules and that (he) engaged in other complicity in one or more rule violations, and trafficked and/or distributed and conspired to assist, incite, traffic and distribute prohibited substances and techniques in violation of Applicable Rules, including but not limited to prior IAAF Anti-Doping Rules 55, 56 and 60 and the IAAF Procedural Guidelines.”
7. In the notification letter of 2 November 2009, USADA gave the Athlete an opportunity to contest such charges by 12 November 2009. The Athlete did not respond.
8. In the notification letter of 16 December 2009, USADA reminded the Athlete of the charges against him and informed him that the USADA Panel Review Board determined that there was sufficient evidence to find that he had committed an anti-doping rule violation. The Athlete was further informed that he faced a possible sanction of disqualification of all results from the date of first offense and a lifetime period of ineligibility. The Athlete was given until 5 January 2010 to contest the sanctions proposed by USADA. The Athlete did not respond.
9. In the notification letter of 13 January 2010, USADA reminded the Athlete of the charges against him and informed him that under USADA Protocol, his doping violation and resulting

sanction would be publicly announced, and that he had until 25 January 2010 to contest the sanction proposed by USADA. The Athlete did not respond.

10. Following the receipt by the IOC of the above-mentioned correspondence, the IOC President, by letter dated 22 October 2010, set up a Disciplinary Commission, consisting of Thomas Bach (Chairman), Denis Oswald and Frank Fredericks.

The IOC President decided that the decision of the Disciplinary Commission shall constitute the decision of the IOC.

11. The Disciplinary Commission noted that USADA notified the Athlete on several occasions of the specific charges and proposed sanctions for his anti-doping rule violations.
12. On 5 February 2010, USADA publicly announced the Athlete's anti-doping rule violation and sanction, consisting of (i) a two-year suspension, and (ii) disqualification of all results since 2 November 2001.
13. On 9 February 2010, USADA informed the IOC by email that the Athlete did not sign an acceptance of sanction, nor did he contest the sanction, and in these situations, under USADA rules, the proposed sanction is imposed "after notice and a certain amount of time."
14. On 20 April 2010, USADA informed the IOC by email that "with respect to Mr. Ross, USADA's evidence is that he used banned performance enhancing drugs prior to November 2001 outside the eight year limitations period and then used banned performance enhancing drugs within the limitations period during 2001, 2002 and 2003. Mr Ross did not accept a sanction, but USADA imposed a sanction and a loss of results on him from November 2001 due to his failure to respond to USADA's charges against him...USADA has no specific information...that Mr. Ross did or did not use banned performance enhancing drugs during the 2004 Olympic Games."
15. On 26 October 2010, the IOC informed the Athlete through his NOC, the United States Olympic Committee ("**USOC**") that an IOC Disciplinary Commission was convened to examine his case. In this letter, the IOC informed the Athlete of the potential disqualification of his results at the Athens Olympic Games and formally requested the Athlete to submit a written defence by 22 November 2010.
16. On 2 November 2010, the USOC informed the IOC that the Athlete confirmed receipt of the IOC's letter of 26 October 2010. Despite having been notified by the USOC, the Athlete has not provided any documentation or information to the IOC.
17. On 11 March 2011, in response to further inquiry from the IOC, the USOC confirmed to the IOC that, other than his initial confirmation of receiving the IOC's letter of 26 October 2010, the USOC had not heard from the Athlete.
18. The Disciplinary Commission notes that the Athlete did not contest the USADA sanction of disqualification of all results since November 2001, which would include results obtained while competing at the Athens Olympic Games. The Disciplinary Commission further notes that under USADA rules, after notice and a certain amount of time, if the Athlete does not contest the sanctions, such sanctions are imposed. Therefore, based on the foregoing, the Disciplinary Commission concludes that the Athlete should be disqualified from the men's 110m hurdles event at the Athens Olympic Games.

CONSIDERING the above, and pursuant to the provisions of the Olympic Charter and the relevant anti-doping rules:

**THE DISCIPLINARY COMMISSION OF THE
INTERNATIONAL OLYMPIC COMMITTEE
DECIDES**

- I. The athlete, Duane Ross, be disqualified from the men's 110m hurdles event in which he placed 5th in the semi-final heat at the 2004 Athens Olympic Games;
- II. The IAAF is requested to modify the results of the above-mentioned event accordingly and to consider any further action within its own competence.
- III. This decision shall enter into force immediately.

Lausanne 5 April 2011

Thomas BACH
Chairman

Denis OSWALD

Frank FREDERICKS