

INTERNATIONAL TENNIS FEDERATION
INDEPENDENT ANTI-DOPING TRIBUNAL
DECISION IN THE CASE OF NURIA LLAGOSTERA VIVES

Ian Mill QC, sitting as sole arbitrator

(A) Introduction and Summary of Issues

(1) Introduction

1. This is the decision of an independent Anti-Doping Tribunal (“the Tribunal”) appointed by the International Tennis Federation (“the ITF”) under Article 8.1.1 of the ITF Tennis Anti-Doping Programme 2013 (“the Programme”) to determine the charge that Nuria Llagostera Vives (“Ms Llagostera”) committed an Anti-Doping Rule Violation¹ under Article 2.1 of the Programme, the allegation being that a urine sample collected from Ms Llagostera on 23 July 2013 during the Bank of the West Classic held in Stamford, California, USA (“the Tournament”) contained a Prohibited Substance, namely *d*-methamphetamine (“the Prohibited Substance”), in circumstances where Ms Llagostera did not have a therapeutic use exemption (a TUE) granting her permission to use the Prohibited Substance for medical reasons (“the Charge”).

2. The ITF was represented at the hearing of the Charge in London by Jonathan Taylor and Jamie Herbert of Bird & Bird, its solicitors. Ms Llagostera was represented by Professor Juan de Dios Crespo Perez and Mr Enric Ripoll of Ruiz Huerta & Crespo SL, her lawyers. The Tribunal heard live evidence from three witnesses: one on behalf of the ITF - Professor Christiane Ayotte (“Professor Ayotte”), who gave her evidence by telephone from Canada; one

¹ This Decision contains a number of undefined capitalised terms. The definitions are to be found in the Programme.

on behalf of Ms Llagostera - Dr Giuseppe Pieraccini (“Dr Pieraccini”); and Ms Llagostera herself. It also received into evidence, on an uncontested basis, on behalf of Ms Llagostera, statements from a player, Alicja Rosolska, who was a fellow participant in the Tournament, from the Tournament’s Transportation Manager, Marla Ono, and, by way of character witness testimony, from Ms Elizabeth Lindsay, a friend who had spent a considerable amount of time with Ms Llagostera during professional tennis tournaments over the past three years. The Tribunal also received into evidence the unchallenged statement, submitted by the ITF, of Patrick Hanley (“Mr Hanley”), a Doping Control Officer for International Doping Tests and Management Limited (“IDTM”), who had been appointed by the ITF to be in charge of testing at the Tournament.

3. The Tribunal listened to and considered this evidence during and following a hearing in London on 29 October 2013, and it has read and listened to, and considered, detailed written and oral submissions on behalf of the parties.
4. The Tribunal would like to thank the parties’ representatives for the considerable assistance which it has derived from their efforts on behalf of their respective clients.

(2) Summary of Issues

5. Ms Llagostera did not seek to dispute before the Tribunal the commission of the alleged Anti-Doping Rule Violation under Article 2.1 of the Programme. Her submissions were limited therefore to matters going only to the sanctions which should follow in consequence of that Violation. Specifically, Ms Llagostera contended that:
 - a. She was entitled to rely upon Article 10.5.1 of the Programme, in that she bore no Fault or Negligence in relation to the Anti-Doping Rule Violation committed by her, and should therefore in consequence suffer no period of Ineligibility.

- b. Alternatively, she was entitled to rely upon Article 10.5.2 of the Programme, in that she bore no Significant Fault or Negligence in relation to that Anti-Doping Rule Violation, and should therefore have a period of Ineligibility limited to one year (as opposed to the two years otherwise applicable pursuant to Article 10.2 of the Programme).
 - c. In any event, fairness required pursuant to Article 10.8 of the Programme that she should not suffer Disqualification in respect of her competitive results in the period after the Tournament (during which she participated in five events) before she was provisionally suspended from competing on 8 September 2013.
 - d. The ITF should bear the costs of the proceedings before the Tribunal, including the cost of her legal representation.
6. The ITF, for its part, asserts that:
- a. The usual rule under Article 10.2 should apply in the circumstances of this case, in particular because Ms Llagostera is unable to discharge the burden upon her, which is a threshold requirement for the application of Article 10.5.1 or 10.5.2 of the Programme, to establish on the balance of probabilities how the Prohibited Substance entered her system.
 - b. The normal rule under Article 10.8 should apply (i.e. that Ms Llagostera's subsequent results should be disqualified, together with the forfeiture of ranking points and prize money), save in respect of two events she gave urine samples in response to in-competition testing requirements which were negative for any prohibited substance. In relation to these events, the ITF accepted that Ms Llagostera should retain her ranking points and prize money.

c. No costs order should be made against it, whatever the outcome.

7. Following a statement of the relevant factual background, each of these arguments is addressed in turn.

(B) Factual Background

8. Ms Llagostera has been a professional tennis player since 1996. She is now 33 years old. Since 2012, she has only participated in doubles tournaments on the WTA senior professional circuit. In June 2005, she reached her highest singles ranking of 35. In November 2009, she reached her highest doubles ranking of five. She has won two WTA events as a singles player and 16 as one of a doubles pairing. Most notably, at the WTA Tour Championships in 2009, she and her fellow Spaniard, Maria Jose Martinez Sanchez, won the doubles title against Cara Black and Liezel Huber.

9. On 19 March 2013, Ms Llagostera had surgery on her injured left wrist. Although she had been hoping to resume her playing career within two months (at Roland Garros), in fact her first tournament back after surgery was the Tournament, which started on 22 July 2013. Ms Llagostera arrived in California from Spain on 19 July.

10. During the period between her arrival and the start of the Tournament, Ms Llagostera spent her time at the club where the Tournament was taking place ("the Club") and at the hotel where she was staying, save for a visit to San Francisco on the afternoon of the first day of the Tournament (as her first match was not until the following day). On that following day her doubles partner, Francesca Schiavone, informed her that she was unwell and unable to play. In consequence, they withdrew from the Tournament. However, Ms Llagostera had by then already been selected randomly for doping control and that information had been passed on to IDTM's on-site supervisor, Tony Cho ("Mr Cho"). Mr Cho met with Ms Llagostera at about 12.30pm, following

her withdrawal from the Tournament, and informed her both of the need to undertake a doping test and of the existence of a Pro-Am tournament that day which the Tournament sponsors were hosting. He asked Ms Llagostera whether she would like to participate. Ms Llagostera having responded in the affirmative, Mr Cho agreed with her that she should return to the Club later that day to undertake her doping test, following the conclusion of her participation in the Pro-Am.

11. On her return to the Club at about 4pm, Ms Llagostera went to the doping control station, where Mr Hanley took her through the standard doping control procedures and she provided the required urine sample. As part of those procedures, Mr Hanley drew her attention to the box in Section 3 of the relevant form headed "*Declaration of Medication /Supplements*", in which the player is asked to list "*any prescription/non-prescription medications or supplements, including vitamins and minerals, taken over the past 7 days (include substance, dosage and when last taken). Include Therapeutic Use Exemption (TUE) reference number if applicable.*" Mr Hanley asked Ms Llagostera to provide those details, and she responded by crossing a line through that box. Mr Hanley then told her that, if she had not taken anything, she should say so in words. Ms Llagostera then wrote the word "*No*" in the box.

12. On 21 August 2013, the WADA-accredited laboratory in Montreal, Canada reported an adverse analytical finding for the prohibited substance, *d*-methamphetamine, in Ms Llagostera's urine sample². An independent Review Board having established that Ms Lagostera did not have a TUE for the Prohibited Substance and that there were no obvious departures from the International Standard for Testing or the International Standard for Laboratories that could have caused the adverse analytical finding, Ms Llagostera received the Charge by letter dated 28 August 2013. In that letter, Ms Llagostera was informed that she would be provisionally suspended from

² *D*-methamphetamine is listed as a "*Non-Specified Stimulant*" in Section S6 of the ITF's published Prohibited List (and accordingly, its use is prohibited in-competition).

8 September 2013 unless she elected to challenge that suspension under Article 8.3.1 of the Programme. She did not make any such challenge. Therefore, having played in five tournaments after the Tournament, in Carlsbad, Toronto, Cincinnati, New Haven and at the US Open (at two of which – Toronto and Cincinnati – she tested negative following selection for random in-competition doping testing), from 8 September Ms Llagostera ceased participation in professional tennis events.

(C) **The Issues**

(1) The Application of Article 10.5.1

13. Article 10.5.1 of the Programme provides as follows:

“If a Participant establishes in an individual case that he/she bears No Fault or Negligence in respect of the Anti-Doping Rule Violation in question, the otherwise applicable period of Ineligibility shall be eliminated. When the Anti-Doping Rule Violation is an Article 2.1 offence....., the Player must also establish how the Prohibited Substance entered his/her system in order to have the period of Ineligibility eliminated...”

14. Ms Llagostera was keen to emphasise to the Tribunal that she had never used any prohibited substance throughout her professional career, whether in order to enhance her sporting performance or otherwise. She explained that she had given much thought as to how she could have been in contact with the Prohibited Substance found in her system; she had retraced in her mind how she had spent her days once she had arrived in California, but was unable to work out how this might have occurred. She told the Tribunal how she had avoided any risky environments – she had eaten room service while in the hotel, she had not gone out to any restaurant and she had only consumed a bottle of water while in San Francisco. To the extent that she espoused any theory, it was that maybe she had drunk from a wrong bottle of water while practising at the Club – it was brought out in evidence that the

Court that she was practising on had been used earlier that day by Club members who were not part of the professional circuit. However, in closing it was emphasised on her behalf that, unlike other players before her, Ms Llagostera was not advancing before the Tribunal any possible theory as to how she might have ingested the Prohibited Substance. She was not attempting “to demonstrate what it is impossible to demonstrate”.

15. What Ms Llagostera did seek to establish, by reference to the expert opinion evidence of Dr Pieraccini, a pharmaceutical and analytical chemist and director of the Mass Spectrometry Centre of the University of Florence, was that, having regard to the concentration of the Prohibited Substance found in Ms Llagostera’s system, it was impossible that she had ingested that Substance with a view to enhancing her sporting performance. In particular, in his written evidence to the Tribunal, he stated:

“In my opinion, it is out of discussion that Ms Llagostera ... took dMA with the aim of influencing her performance. The very low concentration of dMA in her urine sample (estimated in 62ng/ml during the screening analysis) and the presence of traces of dA (not quantified in Montreal) clearly indicated that the drug entered in Ms Llagostera’s body at least 48 hours before the anti-doping control, considering the intake of an efficacious dose at least for the purpose of improving her performance”.

16. However, in his oral evidence, Dr Pieraccini very fairly conceded that his conclusion quoted above involved an element of speculation and supposition on his part, since: (a) it was not possible to establish from one urinary concentration at one point in time when, where, how or how much of the Prohibited Substance had been ingested; (b) there were large inter-individual variabilities in terms of the effects of the Prohibited Substances; (c) an analysis of plasma concentration as opposed to urinary concentration might be more effective to assess whether the ingestion of the Prohibited Substance would have had performance enhancing effects at the relevant time, but this analysis had not been carried out; (d) the presence of a trace of *d*-amphetamine (dA) in the urinary sample might suggest that the ingestion had

not been as recent as 30 minutes prior to the test, but even that was no more than an educated guess and would have depended upon the mode of ingestion and the particular effect of the Prohibited Substance upon the player.

17. The appropriateness of these concessions was borne out by the testimony of Professor Ayotte, director of the Laboratoire de contrôle du dopage, INRS – Institut Armand-Frappier in Quebec, who was clear that it was not possible to draw any conclusions about the quantity of the Prohibited Substance ingested, the mode or timing of its ingestion or the motivation of the person ingesting it, based upon the concentration of the Prohibited Substance (and of the *d*-amphetamine) found in the urinary sample given by Ms Llagostera on 23 July 2013. In particular, she explained that the concentration was only an estimate, given that the Prohibited Substance was not one in respect of which any specified minimum quantity was required in order for its presence to give rise to a doping offence.
18. Professor Ayotte gave two additional pieces of evidence that are to be noted:
 - a. The Prohibited Substance was not a frequently detected substance in athletes.
 - b. The Prohibited Substance was and is available only as a street drug (crystal meth or meth) or as a stimulant or as a party drug, save (and this was the only legal circumstances for its ingestion) where it was prescribed medically as part of a treatment for ADHD or a similar behavioural disorder. Otherwise it was *“not something that athletes or normal people in their life would be exposed to”*. In particular, it was not

something that could be ingested as part of a normal diet or in any supplement of which she was aware³.

19. In addition to calling Professor Ayotte to address the report of Dr Pieraccini, the ITF made the following submissions about the application of Article 10.5.1 to the present case:

- a. Ms Llagostera faced and failed to satisfy a strict threshold requirement for the application of Article 10.5.1, namely as to how (on the balance of probabilities) the Prohibited Substance entered her system. This had to be a strict requirement since, without such proof, it was impossible to assess meaningfully the degree of fault Ms Llagostera bears for the presence of the Prohibited Substance in her system⁴.
- b. It was not sufficient simply for Ms Llagostera to deny any intent to cheat, and to assert that therefore the substance had to have been ingested inadvertently⁵.
- c. There was a duty of utmost caution on an athlete under the Programme to ensure that no prohibited substance enters his/her system. It was presumed therefore that, if a prohibited substance were found, it was due to fault on the part of the athlete. The onus was on the athlete to displace that presumption, as provided for in the Programme (including in Article 10.5.1). It needed to be this way, otherwise the system of doping control adopted by the ITF as part of the international efforts to eradicate the use of prohibited substances in sport would be rendered futile.

³ Professor Ayotte referred to a recent paper which suggested that one supplement (“Sport Driven Craze”) included an analogue of methamphetamine. She explained that this was not the same molecule and would not produce a reading for methamphetamine.

⁴ *La Barbera v IWAS* [CAS 2010/A/2277 at para 4.26; *Karatantcheva v ITF* [CAS 2006/A/1032] at para 117.

⁵ *IWBF v UK Anti-Doping Ltd & Gibbs* [CAS 2010/A/2230] at paras 11.5 and 11.6.

- d. Ms Llagostera's attempt to establish an absence of intent on her part to enhance performance was in any event immaterial, since an absence of such intent (in contrast to Article 10.4 cases) was irrelevant to the application of Article 10.5.1 of the Programme.
20. In response, Ms Llagostera sought to distinguish on their facts the key CAS cases cited by the ITF and to pray in aid an over-arching principle that a sanction should not be unfair or disproportionate. Her case was that she clearly had not intended to ingest the Prohibited Substance; it had to have been an accidental ingestion of a small amount on 21 or 22 July 2013; she had, commendably, not attempted to try to establish precisely how that ingestion had occurred (it being impossible to know such detail in such circumstances) and that accordingly a sanction of two years would be unfair and disproportionate.
21. The Tribunal has concluded as follows:
 - a. It is bound by, and in any event clear that it should follow, the CAS jurisprudence to which the ITF drew attention on the threshold requirement upon a player who seeks to rely upon Article 10.5.1. While it is of course true that those cases were decided by reference to their specific facts, they articulated principles relevant to interpretation of the Programme (and in particular Article 10.5), which have, and were intended to have, application beyond the facts of those particular cases.
 - b. Indeed, it is in the Tribunal's opinion particularly important that a player should have a strict obligation to explain the circumstances of the ingestion of a prohibited substance in a case where (as here) there is no evidence supporting the availability of that substance legally which could explain that ingestion (see paragraph 18 above). In reality, therefore, the only realistic explanations are: on the one hand,

deliberate ingestion by the player; or, on the other hand, accidental ingestion of it through (a) spiking by contamination of the player's drink/food by a third party, or (b) consumption of a third party's drink or food. These starkly different possibilities should not be determined in the player's favour without some firm and clear evidential basis for such a conclusion.

- c. The Tribunal notes the player's disavowal of any attempt to proffer an innocent explanation for the ingestion of the Prohibited Substance, but does not consider that to be a matter which assists her in the analysis of whether she can overcome the strict threshold requirement of Article 10.5.1. Indeed, on the contrary, it makes it inevitable that she cannot satisfy that requirement. There was, on an analysis of the expert evidence referred to in paragraphs 15 to 17 above, nothing from which the Tribunal could properly conclude that the ingestion which led to the positive urine sample had been accidental - as Dr Pieraccini had sought to establish, in his written report at any rate. Ms Llagostera's personal denial of any deliberate ingestion is noted but, on its own, quite insufficient to bring Article 10.5.1 into play. Equally, the facts that (a) she had previously passed some 80 such tests during her career, and (b) that she passed two further such tests after the failed test in question, does not provide the necessary evidence that she innocently ingested the Prohibited Substance that gave rise to that failed test.
- d. Moreover, the Tribunal does not consider that Ms Llagostera is assisted by invoking the principle of proportionality. That argument was considered and rejected by CAS in the *Gibbs* case at paragraph 11.12:

"the requirement that [the athlete establishes how the prohibited substance entered his/her body] is prima facie proportionate. To permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules. Spiking and contamination – two prevalent explanations volunteered by athletes for such presence – do and can occur; but it is too

easy to assert either; more must sensibly be required by way of proof, given the nature of the athlete's basic personal duty to ensure that no prohibited substances enter his body. The Sole Arbitrator has sympathy with athletes who are – as he accepts they can be – victims of spiking without evidence to prove its occurrence; but the possible unfairness to such athletes is outweighed by unfairness to all athletes if proffered, but maybe untruthful explanations of spiking are too readily accepted”.

- e. There were times during the course of the closing submissions on behalf of Ms Llagostera when it appeared that the argument was not so much that she was entitled to invoke Article 10.5.1 in the circumstances of her case but that she ought to be able to do so, and that the terms of Article 10.5.1 should be reconsidered in consequence to reduce the burden upon an athlete, who is currently required in effect to prove that which it is impossible to prove. If that submission was designed to elicit some support for such a proposition from this Tribunal, that invitation is declined.
- f. Accordingly, Ms Llagostera fails on this first issue; she is unable to rely upon the provisions of Article 10.5.1 to eliminate the otherwise applicable period of Ineligibility of two years.

(2) The Application of Article 10.5.2

- 22. Article 10.5. 2 provides as follows:

“If a Participant establishes in an individual case that he/she bears No Significant Fault or negligence in respect of the Anti-Doping Rule Violation charges, then the 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 ... When the Anti-Doping Rule Violation is an Article 2.1 offence ..., the Player must also establish how the Prohibited Substance entered his/her system in order to have the period of Ineligibility reduced.”

- 23. No submission was made to the Tribunal by either party which sought to differentiate between Article 10.5.1 and Article 10.5.2 in connection with the obligation on the player (specified in both Articles) to satisfy the threshold

requirement of establishing how the prohibited substance in question entered his/her system. Moreover, there is nothing in the authorities which have been drawn to the Tribunal's attention which would warrant any such differentiation. Accordingly, for the reasons given above in relation to Article 10.5.1, the Tribunal concludes that Ms Llagostera is not entitled to rely upon Article 10.5.2 to reduce the otherwise applicable period of Ineligibility of two years.

(3) Disqualification of Subsequent Results

24. Article 10.8 of the Programme provides as follows:

"In addition to the automatic Disqualification, pursuant to Article 9, of the results in the Competition that produced the Adverse Analytical Finding (if any), all other competitive results obtained from the date the Sample in question was collected ... through to the start of any Ineligibility period shall be Disqualified (with all the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money), unless the Independent Tribunal determines that fairness requires otherwise." (emphasis added)

25. Ms Llagostera contended that fairness required that all her competitive results after 23 July 2013 should remain untouched and not be Disqualified. She particularly relied in this regard upon her two subsequent negative tests and the fact that she only became aware of the 23 July positive test on 28 August 2013 - by which time she had already started her participation in the US Open, her final competitive event before she was provisionally suspended (as to which, see paragraph 12 above). She also relied upon the contention (dealt with above) that the concentration of the Prohibited Substance (and of *d*-amphetamine) in the urine sample given by her on 23 July 2013 was such as to negate any suggestion of an unfair sporting advantage.

26. The Tribunal does not consider (for the reasons previously stated) that it can draw any conclusions either way as to unfair sporting advantage from the analysis of Ms Llagostera's urine sample. As to her submission about subsequent tests:

- a. The ITF rightly accepts that proof of a lack of performance enhancement in relation to any particular subsequent tournament would be relevant to the fairness or otherwise of Disqualifying the results of that tournament, and in consequence accepts that the results from the tournaments in which Ms Llagostera participated in August 2013 in Cincinnati and Toronto should not be Disqualified. As to the remaining three tournaments, however, the ITF presses for Disqualification, on the basis that it cannot be known whether the Prohibited Substance was present in her system during those tournaments (as she was not tested) and that therefore the normal rule (ie Disqualification) should apply.
- b. It is correct that, as a matter of construction of Article 10.8 of the Programme, the normal outcome, not the exception, will be Disqualification⁶. In *Bogomolov*, the sole arbitrator observed (at para 110), having stated that the presence or otherwise of a sporting advantage in a subsequent tournament was a relevant factor, continued that another such factor was that *“the Tribunal’s decision as to the length of any period of ineligibility may be informed by its decision in relation to subsequent disqualification – or vice versa if the Tribunal considers the issue in reverse order.”*
- c. The Tribunal agrees that the impact of the period of Disqualification can be relevant to fairness in the context of Article 10.8. Here, Ms Llagostera informed the Tribunal that the effect of a two year period of Ineligibility would in practice be to end her career. She would have no ranking points when she became free once more to compete and this would disable her from participating in doubles tournaments, where she would be reliant solely upon invitations to compete (which would

⁶ *ITF v Bogomolov* Anti-Doping Tribunal decision dated 26 September 2013 at para 109.

be very difficult for her to attract, in particular given her age). The Tribunal accepts this evidence.

- d. In the view of the Tribunal, therefore, despite the absence of evidence either way as to the existence of any sporting advantage at the remaining three tournaments, fairness does indeed dictate that none of the results from these tournaments should be Disqualified. Although it would appear to make no practical difference whether she retains the ranking points from her performances in those tournaments, it would not be fair in all the circumstances to deprive her of the prize money earned by her at those events. Those circumstances also include the absence of any material positively indicating the likelihood of the ingestion by her after 23 July 2013 of the Prohibited Substance.

(4) Costs

27. There is, in the view, of the Tribunal, no reason why the ITF should bear all the costs of the proceedings before the Tribunal and it declines so to order.
28. Under Articles 8.8.3 and 8.8.4 of the Programme, the ITF will ordinarily pay the costs of convening the Independent Tribunal and of staging the hearing; as to any order for costs against either party, the Independent Tribunal has power to make such an order but each party, absent any such order, will be responsible for its own costs of the hearing (including representation and expert evidence).
29. The ITF has not applied to the Tribunal for any costs order in the present case against Ms Llagostera. The Tribunal does not consider in those circumstances that it is appropriate to make any such order in the ITF's favour. It therefore makes no order as to costs.

(D) The Tribunal's Ruling

30. Accordingly, for the reasons given above the Tribunal:

- a. Confirms the commission of the Anti-Doping Rule Violation under Article 2.1 of the Programme specified in the Charge;
- b. Orders that Ms Llagostera's results at the Tournament must be Disqualified, and in consequence rules that her ranking points and prize money (if any) obtained by her must be forfeited;
- c. Orders further that Ms Llagostera be permitted to retain the prize money and ranking points obtained by her from her participation in each of the five subsequent competitions in which she participated;
- d. Finds that Ms Llagostera has failed to establish that the circumstances of her Anti-Doping Rule Violation bring her within the provisions of Article 10.5.1 or 10.5.2 of the Programme;
- e. In consequence, declares Ms Llagostera ineligible for a period of 24 months, commencing on 8 September 2013, from participating in any capacity in (i) any Covered Event; (ii) any other Event or Competition or activity (other than authorised anti-doping education or rehabilitation programmes) authorised, organised or sanctioned by the ITF, the ATP, any National Association or member of a National Association, or any Signatory, Signatory's member organisation, or club or member organisation of that Signatory's member organisation; or (iii) any Event or Competition authorised or organised by any professional league or any international or national-level Event or Competition organisation.

Ian Mill QC

11 November 2013

Postscript

1. In evidence before the Tribunal, Ms Llagostera disclosed that, despite writing the word “No” in the box on the doping control form where recently taken medications/supplements were to be identified (see paragraph 11 above), she had in fact taken ibuprofen or paracetamol on 21 July 2013, given to her by physiotherapists at the Club, in response to a headache that had come on (in all probability) as a result of the flight from Spain. Moreover, she disclosed that she had been taking three daily supplements (vitamin C, antioxidants and calcium), offered by USANA (sponsors of the WTA tour) to all participating players. In answer to the question why in those circumstances she had completed the Doping Control Form as she did, Ms Llagostera asserted that she understood that it was only necessary to include any medication/supplement if they posed a risk of containing a prohibited substance. In that context, she disclosed that, when offered any medication, she would check with the senior doctor of the Spanish Tennis Federation (Dr Ruiz Corro) to obtain his permission to use it. If he gave that permission and she was taking it at the relevant time, she did not disclose it on her doping control form.

2. She gave the following evidence in answer to questions from the Tribunal:

“A. I did not think it was that crucial.

Q. You did not think it was that crucial?

A. No.

Q. You did not see the importance of making sure that you filled out these forms fully and completely and accurately?

A. No.

Q. Why is that?

A. Because I knew they were out of problem, since the doctors gave me permission, so I did not think I would get in trouble because of that.

Q. Did you think that the reason that you had to declare medications was because you might get into trouble?

A. Yes, but I trust in my doctors.

Q. *Did it not occur to you that if you disclosed a medication and there was a trouble, then that disclosure would be an explanation as to why the substance had got into your body?*

Did you not think that was a good thing?

A. *Yes, but I never thought I would be in this situation.*

Q. *Has anyone in professional tennis ever advised you that it was appropriate for you not to declare substances which had been approved by your doctor?*

A. *No one has talked to me about that."*

3. It is clearly a matter of concern (on a number of levels) that a player with the wealth of experience of Ms Llagostera should have given such evidence about the completion of such an important part of the ITF's standard doping control form. For the purposes of this postscript, however, the main concern would be if the player's professed ignorance of the significance of completing this part of the form correctly and fully were to be attributable to a lack of education in this respect of Ms Llagostera and her fellow professionals. In that context, the Tribunal draws attention to the evidence given to her in answer to subsequent questions from her legal representative Professor Crespo Perez:

"MR. CRESPO PEREZ: Ms. Llagostera, did you receive any official advice from any WTA or ITF responsible in how and what to fill in this form? Is there anything, is there any lecture, anyone who normally at the beginning of year says, "Look, this form has to be filled that way or the other"?

A. *No.*

Q. *You never received?*

A. *No.*

THE CHAIRMAN: So if I understood this correctly, Ms. Llagostera, no one, at any time during your career, has given you any guidance about completing these forms.

A. *No".*