

**DECISION OF THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE
SPORT ANTI DOPING DISCIPLINARY COMMITTEE**

In the matter of:

JARED LOVETT

1. This committee was appointed by the South African Institute for Drug-Free Sport (SAIDS). SAIDS is a statutory body created by section 2 of South African Institute for Drug-Free Sport Act 14 of 1997, as amended in 2005 when SAIDS accepted the World Anti-doping code. The Anti-doping Rules 2009 Published by SAIDS are applicable to the present proceedings.) (“**the Rules**”)
2. The SAIDS Anti-doping Disciplinary Committee (“**the Committee**”) has been Appointed in terms of Article 8.1 of the Rules. The committee consists of Adv Nicolas Kock, Dr Mwzakhe Qobose and Prof Denver Hendricks.
3. The charge against the boxer, Mr Jared Lovett (“**Lovett**”) is contained in a letter dated 07 September 2010 addressed to the boxer. The relevant portion of the letter relating to the charge reads as follows:

“You have been charged with an anti-doping rule violation in terms of Article 2.1 of the 2009 Anti – Doping Rules of the South African Institute for Drug Free Sport (SAIDS).

On the 01 July 2010, you provided a urine sample (A 2529 737) during an out-of-competition test as per the normal procedure for drug testing in sport. Upon analysis, the South African Doping Control Laboratory at the University of the Free State reported the presence of a prohibited substance in your sample.

The substances identified were 5β -androst-1-en-17 β -ol-3-one and 5β -androst-1-en-3 α -ol-17-one, which are metabolites of Boldenone. Boldenone is classified as an

Anabolic Agent and falls under the class S1 on the World Anti-Doping Code 2010 Prohibited List International Standard.”

4. It is necessary to set out herein Article 2.1 of the Rules which reads as follows:

“2.1 Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete’s Sample*.

2.1.1 It is each *Athlete’s* personal duty to ensure that no *Prohibited Substance* enters his or her body. *Athletes* are responsible for any *Prohibited Substance* or its *Metabolites* or *Markers* found to be present in their *Samples*. 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”

5. The pro-forma prosecutor for SAIDS was Mr Hattingh (“**Hattingh**”). Lovett was absent from the proceedings, therefore it is necessary to set out Article 8.4 of the Rules which read as follows:

“8.4 Proceedings of a SAIDS *Anti-Doping Disciplinary Committee*

8.4.5 A failure by any party or their representative to attend a hearing after notification will be deemed to be an abandonment of their right to a hearing. This right may be reinstated on reasonable grounds.”

6. Mr. Hattingh produced a copy of a signed waybill as proof that all relevant documentation regarding the hearing was served on Lovett’s domicilium executandi at 205 Vorster Avenue, Glenvista, 2091.
7. Contained in documentation is inter alia the warning regarding the implications of non-attendance of proceedings as contemplated in clause 8.4.5 of the Rules re ‘the abandonment of the right to a hearing’.
8. In lieu of the aforementioned facts the Committee proceeded with the case.

9. In order to secure a guilty verdict from the Committee the pro forma prosecutor, Mr Hatttingh, needs to discharge the burden of proof as contemplated in Article 3.1 of the Rules. It states the following:

“Rule 3.1 Burdens and Standards of Proof

SAIDS has the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether SAIDS has established an anti doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation that is made. The standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.

10. A Doping Control Form from SAIDS for the out of competition testing of Lovett signed by the athlete acknowledging that he has read the notice was presented into evidence.
11. Lovett concedes on the Doping Control Form that he has been notified of his selection for doping control and that he gives his consent to provide samples for anti-doping research.
12. A Chain of Custody Form was presented as proof that the chain of custody of Sample A 2529 737 with seal nr A 031 953 was never broken.
13. Documentation dating 27th July 2010 was introduced on the sample analysis (A 2529 737) done by the South African Doping Control Laboratory at University of the Free State. It states that the substances identified in the aforementioned sample were 5 β -androst-1-en-17 β -ol-3-one and 5 β -androst-1-en-3 α -ol-17-one, which are metabolites of Boldenone or similar precursors.

14. Boldenone is classified as an Anabolic Agent and falls under the class S1 on the World Anti-Doping Code 2010 Prohibited List International Standard.
15. Correspondence with Lovett on the 06th August 2010 requested information from Lovett should he wish to take up an opportunity for a “B” sample analysis to be taken. The relevant portion reads as follows:
- “4. You should inform SAIDS whether you would like to have your “B” sample analysed as per the instruction below:
- a. The proposed dates for the “B” sample analysis are:
 - Tuesday 17th August 2010, at 08h00
 - Friday 20th August 2010, at 08h00
 - b. You, as well as your representative have the right to attend the “B” sample analysis at the South African Doping Control Laboratory in Bloemfontein should you decide to proceed with this request
 - c. The cost of the “B” Sample analysis is R1172.00, and should be paid prior to the commencement of the “B” sample analysis
 - d. If you would like to proceed with the analysis of your “B” sample, we require the following information before the close of business (16h30) on **Monday 16 August 2010** before we instruct the South African Doping Control Laboratory to proceed with the “B” sample analysis
 - Written confirmation that you would like to have your “B” sample analysed
 - Written confirmation whether you and your representative (provide representative’s name as well) will attend the opening and verification of the “B” sample process
 - A copy of the deposit slip for the payment of the “B” sample analysis
 - e. Confirmation of the information requested in (d) should be forwarded to Mr. Fahmy Galant at the following contact details – fahmy@drugfreesport.co.za (e-mail) or 021 761 8148 (fax)
 - f. If SAIDS has not received a written response as documented in (d) above from you by **Monday 16 August 2010, it will be assumed that you have waived your right to have your “B” sample analysed.** If this is the case then the “A” sample finding will be used as evidence for the anti-doping rule violation”
16. Correspondence to Lovett dated the 20th August 2010 indicates that the athlete did not take up the opportunity to have a “B” sample analysed. The relevant portion reads as follows:
- “Further to our correspondence dated of 06 August 2010 we have not received any information regarding the below mentioned requested information:
1. The required information regarding your “B” sample analysis by the 16th August 2010”

17. Article 2.1.2 of the Rules points out the implication of a positive “A” sample where the opportunity for a “B” sample is waived. Article 2.1.2 of the Rules reads as follows:

“2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete’s A Sample* where the *Athlete* waives analysis of the *B Sample* and the *B Sample* is not analyzed; or, where the *Athlete’s B Sample* is analyzed and the analysis of the *Athlete’s B Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete’s A Sample*.”
18. Accordingly, Lovett is found guilty of contravening Article 2.1 of the Rules having tested positive for a prohibited substance, namely Boldenone and its metabolites.
19. The remaining question is the sanction which should be imposed in respect of the violation of Article 2.1.1 of the Rules.
20. In considering the sanction that should be imposed, Article 10.7 of the Rules come in to play as this is Lovett’s second offence. Clause 38 of the decision from the Committee consisting of Adv Hilton Epstein SC, Prof Denver Hendricks and Dr Sello Motaung in the previous matter of Lovett states the following:

“In the result, the following is the decision of the Committee:

 - a. Jared Lovett is found guilty of the Rule Violation Article 2.1 of the 2009 Anti Doping Rules of the South African Institute for Drug-Free-Sport.
 - b. Jared Lovett is declared ineligible for a period of 2 years from 12 July 2009 as envisaged in Article 10.2 of the Anti-Doping Rules 2009”
21. Article 10.7 of the Rules deals with multiple violations and it specifies that the second standard sanction range for a violation is between eight (8) years ineligibility to a life suspension. Lovett is currently serving a two (2) year suspension and tested positive

for Boldenone whilst under this suspension.

22. Article 10.7.2 of the Rules sets out the conditions under which an elimination, reduction or suspension of sentence may take place. It reads as follows:

“10.7.2 Application of Articles 10.5.3 and 10.5.4 to Second Violation.

Where an *Athlete* or other *Person* who commits a second anti-doping rule violation establishes entitlement to suspension or reduction of a portion of the period of *Ineligibility* under Article 10.5.3 or Article 10.5.4, the SAIDS *Anti-Doping Disciplinary Committee* or SAIDS *Anti-Doping Appeal Board* shall first determine the otherwise applicable period of *Ineligibility* within the range established in the table in Article 10.7.1, and then apply the appropriate suspension or reduction of the period of *Ineligibility*. The remaining period of *Ineligibility*, after applying any suspension or reduction under Articles 10.5.3 and 10.5.4, must be at least one-fourth of the otherwise applicable period of *Ineligibility*.”

23. No evidence in mitigation of prescribed range of sanction i.t.o. Article 10.7 of the Rules was introduced in any form to the hearing by Lovett or any interested third party.

24. Article 10.9 deals with the commencement of Ineligibility Period and provides.

“10.9.1 Except as provided below, the period of *Ineligibility* shall start on the date of the hearing decision provided for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed.”

25. Lovett is deemed to have waived his right to a hearing i.t.o. Article 8.4.5 of the Rules as stated in clause 5 of this decision hence the period of ineligibility will not run concurrently with Lovett's previous sanction but as from the completion thereof on the 12th July 2011.

26. The Committee considered the fact that Lovett was previously found guilty for having tested positive for a prohibited substance called Stanazolol and its metabolites. The

fact that Lovett subsequently tested positive for Boldenone and its metabolites suggests an escalation and intent to use prohibited substances as the latter is only available for equine veterinary use in South Africa to be administered with a syringe.

27. The Committee concurred with the sentiments expressed relating to the important role that federations need to play in educating their athletes and members regarding the risk and consequences re doping. Federations need to familiarise themselves with the Anti-Doping Rules and incorporate it into every fibre of their organisation's vision and operation. Federation need to understand the culture of doping within their own respective organisations and assist SAIDS in its efforts to combat doping.

28. In the result, the following is the decision of the Committee:

a. Jared Lovett is found guilty of a second infringement of the Rule Violation Article 2.1 of the 2009 Anti Doping Rules of the South African Institute for Drug-Free-Sport.

b. Jared Lovett is declared ineligible for a period of 16 years from 12 July 2011 as envisaged in Article 10.2 of the Anti-Doping Rules 2009.

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Adv NG Kock

Chairperson

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Prof D Hendricks

Committee Member

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Dr M Qobose

Committee Member

11th November 2010