

## Issued Decision

# UK Anti-Doping and Nathaniel Wilding

**20 March 2014**

### Disciplinary Proceedings under the Anti-Doping Rules of the British Weightlifting Association

This is an Issued Decision as between UK Anti-Doping Limited and Mr Nathaniel Wilding relating to an Anti-Doping Rule Violation arising from the British Weightlifting Association Anti-Doping Rules.

### Background and Facts

1. The British Weightlifting Association ('BWLA') is the governing body for the sport of Powerlifting in the United Kingdom. UK Anti-Doping Limited ('UK Anti-Doping') is the National Anti-Doping Organisation for the United Kingdom.
2. Mr Nathaniel Wilding ('the Athlete') is a twenty-one (21) year old Powerlifter. At all material times he was subject to the jurisdiction of BWLA and the ADR. Pursuant to the ADR, UK Anti-Doping was empowered to conduct both the process of Doping Control, and Results Management, as those terms are used in the ADR.
3. On 30 November 2013, the Athlete provided an In Competition sample to UK Anti-Doping pursuant to the ADR ('the Sample') at the IPC Powerlifting Competition, Stoke Mandeville Stadium, Buckinghamshire.
4. The Sample was submitted for analysis to the Drug Control Centre, King's College London, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory'). On 17 December 2013, the Laboratory reported to UK Anti-Doping that an Adverse Analytical Finding for 11-nor-delta-9-tetrahydrocannabinol-9-carboxylic acid had been made in respect of the Sample. In this Decision, 11-nor-delta-9-tetrahydrocannabinol-9-carboxylic acid is referred to as 'Cannabis', and the Adverse Analytical Finding is referred to as 'the Finding'.
5. Cannabis is listed under S8 (Cannabinoids) of WADA's 2013 List of Prohibited Substances (the "List"). It is a "Specified Substance".
6. On 19 December 2013, the Athlete was issued with a Notice of Charge ('the Charge') by UK Anti-Doping. The Charge related to the commission of an Anti-Doping Rule Violations ('the ADRV') pursuant to ADR 2.1 (Presence of a Prohibited Substance in an Athlete's Sample). The Charge explained the facts relied on in support of the allegation, the details of the charge, the consequences of an admission or proof of the ADRV, and the procedure for analysis of the B Sample. The Charge was received by the Athlete.

7. The Athlete has admitted the Charge. He has asked that the Consequences in respect of the Charge be set by way of the application of ADR 10.4. UK Anti-Doping has agreed to that request and the Consequences have been imposed on that basis.

8. In that regard, ADR 7.5.4 provides:

*"In the event that the Participant admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by [UK Anti-Doping] (or is deemed to have done so in accordance with the last sentence of Article 7.5.1), neither B Sample analysis nor a hearing is required. Instead, [UK Anti-Doping] shall promptly issue a decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences, shall send notice of the decision to the Participant and to each Interested Party, and shall publish the decision in accordance with Article 14."*

9. UK Anti-Doping has specified the Consequences in respect of the ADRV to be a period of Ineligibility of six (6) months, for the reasons explained in this Decision. The Athlete has acceded to the specified Consequences. This Decision is issued pursuant to ADR 7.5.4.

### **Consequences**

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10. ADR 10.2 provides:

*"Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances and/or Prohibited Methods.*

*For an Anti-Doping Rule Violation under Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers), Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) or Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method) that is the Participant's first violation, a period of Ineligibility of two years shall be imposed, unless the conditions for eliminating or reducing the period of Ineligibility (as specified in Article 10.4 and/or Article 10.5) or for increasing the period of Ineligibility (as specified in Article 10.6) are met."*

11. The sanction to be imposed for such a violation is set by in ADR 10.2. It is a period of Ineligibility of two (2) years ("the Standard Sanction"). The Athlete has no record of having committed any previous anti-doping rule violations, and so the Standard Sanction applies.

12. The Athlete sought to mitigate the Standard Sanction by way of ADR 10.4.

13. ADR10.4 states that:

10.4.1 *Where the Participant can establish how a Specified Substance entered his/her body or came into his/her Possession and that such Specified Substance was not intended to enhance the Athlete's sport performance or to mask the Use of a performance-enhancing substance, the period of Ineligibility established in Article 10.2 shall be replaced (assuming it is the Participant's first offence) with, at a minimum, a reprimand and no period of Ineligibility, and at a maximum a period of Ineligibility of two (2) years.*

10.4.2 *To qualify for any elimination or reduction under this Article 10.4, the Participant must produce corroborating evidence in addition to his/her word that establishes, to the comfortable satisfaction of the hearing panel, the absence of an intent to enhance sport*

*performance or to mask the Use of a performance-enhancing substance. The Participant's degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility.*

#### **Application of ADR 10.4**

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##### *Means of Entry*

14. The Athlete has explained that he is a regular 'recreational' cannabis user. He has admitted to using cannabis in quantities ranging from 1g to 2g per day in and around the time of Sample collection.
15. UK Anti-Doping accepts the Athlete's explanation of how Cannabis entered his system. There is no dispute as between UK Anti-Doping and the Athlete as to the means of entry.

##### *Enhancing performance*

16. The Athlete asserts that he did not ingest the Prohibited Substance with a view to enhancing his performance.
17. ADR 10.4.2 requires that the Athlete *"must produce corroborating evidence in addition to his/her word that establishes, to the comfortable satisfaction of the hearing panel, the absence of an intent to enhance the Athlete's sport performance"*.
18. The Commentary to Article 10.4 of the World Anti-Doping Code states that there are *"objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent"*, including the fact that *"the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Athlete"*.
19. UK Anti-Doping does not believe that cannabis is a substance that is capable of enhancing sporting performance in the sport of Powerlifting. There is therefore no dispute as between UK Anti-Doping and the Athlete as to the claim made by the Athlete that he had no intent to enhance his sporting performance by the use of the substance. (For completeness sake, UK Anti-Doping does not believe that cannabis can be used to mask the use of a separate performance-enhancing substance.)

##### *Fault*

20. ADR 10.4 provides that the sanction to be applied in cases where ADR 10.4 applies depends on *"the Participant's degree of fault"*, which is expressed to be *"the criterion considered in assessing any reduction of the period of Ineligibility"*. In turn, the relevant Commentary in the World Anti-Doping Code says that *"[i]n assessing the Athlete's or other Person's degree of fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour"*.
21. The Athlete has failed in respect of his duty to prevent a Prohibited Substance entering his system. The Anti-Doping Rules, and the Commentary to the Code, require the Athlete to explain why he departed from this standard, and, on the basis of that explanation, for a sanction to be imposed.
22. The Athlete has offered the following explanation. Given the level he competes at, he has never received any formal anti-doping education from BWLA, UKAD or his International Federation. He has a



general awareness that there are particular substances that are prohibited in sport but he has no detailed knowledge of those substances, the ADR, the Prohibited List or the procedures associated with doping control. The Athlete has at best a general awareness about anti-doping

23. He also notes – and UK Anti-Doping accepts – that his use was unconnected with sport and in respect of a substance – cannabis – that has no performance enhancing benefit in connection with Powerlifting.
24. Ordinarily, UK Anti-Doping would consider that the appropriate sanction would be a period of Ineligibility of four months. This is consistent with the decisions on sanction handed down by the National Anti-Doping Panel in similar cases, that is where cannabis has been used ‘socially’ with no eye to its impact on subsequent competitive performance.
25. However, there are specific factors in this case that have led UK Anti-Doping to set the Consequences as being a period of Ineligibility of six months.
26. After UK Anti-Doping explained to Mr. Wilding that he would need to explain how cannabis entered his system (in order for ADR 10.4 to apply), Mr Wilding claimed that it had entered his system as a result of ingestion some weeks prior to the date upon which he was tested. This asserted ingestion took place in the course of an overseas trip that Mr. Wilding went on with some friends. UK Anti-Doping did not query whether this trip took place – but did query whether ingestion some weeks before the Sample was collected could have accounted for the finding. After consulting with experts, UK Anti-Doping advised Mr. Wilding that it did not consider that his explanation was adequate.
27. Mr. Wilding then – and only then – admitted that he was, in fact, a regular social user of cannabis. He advanced that use as an explanation for the finding. This was accepted by UK Anti-Doping.
28. Mr. Wilding withheld this information, presumably in the hope that the first explanation would be accepted. This was improper. The advancing of the first explanation resulted in delay to the resolution of the proceedings and required additional time and resource to be spent by UK Anti-Doping and other parties (including WADA).
29. In the circumstances, UK Anti-Doping has (pursuant to Anti-Doping Rule 7.5.4) specified that the Consequences in respect of the Athlete’s anti-doping rule violation should be a period of Ineligibility of six (6) months. The Athlete accepts this sanction.

### **Disqualification of Results and Ineligibility**

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30. ADR 9.1 states that:

*An Anti-Doping Rule Violation committed by a Athlete in connection with or arising out of an In-Competition test automatically leads to the Disqualification of any individual results obtained by the Athlete in the Competition in question, with all resulting consequences, including forfeiture of any medals, titles, points and prizes.*

31. The Athlete’s results from the IPC Powerlifting Competition on 30 November 2013 are disqualified.
32. ADR 10.9.3 provides that:

*The period of Ineligibility shall start on the date that the decision is issued, provided that:*

*10.9.3 any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Participant shall be credited against the total period of Ineligibility to be served. To get credit for any period of voluntary Provisional Suspension, however, the Participant must have given written notice at the beginning of such period to UKAD, in a form acceptable to UKAD (and UKAD shall copy that notice to each Interested Party). No credit under this Article shall be given for any time period before the effective date of the Provisional Suspension (whether imposed or voluntarily accepted), regardless of the Participant's status during such period.*

33. The Athlete has been provisionally suspended since the date of the Charge. The period of Ineligibility therefore is deemed to commence on 19 December 2013 and will expire at midnight on 19 June 2014.
34. During the period of Ineligibility, in accordance with ADR 10.10.1, the Athlete shall not be permitted to participate in any capacity in a competition or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened or authorised by:
- (i) the BWLA or by any body that is a member of, or affiliated to, or licensed by the BWLA;
  - (ii) any Signatory (as that term is defined in the Anti-Doping Rules);
  - (iii) any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation; or
  - (iv) any professional league or any international- or national-level Event organisation.
35. The Athlete, BWLA, the International Paralympic Committee and WADA have a right of appeal against this Decision or any part of it in accordance with Article 13.4.
36. The disposition of these proceedings on the terms set out above will be publicly announced via UK Anti-Doping's website media release after any appeal period has expired and no appeal has been filed, or any appeal has been finalised.

## **Summary**

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37. For the reasons given above, UK Anti-Doping has issued this Decision, which records that:
- (a) An Anti-Doping Rule Violation according to ADR 2.1 has been established;
  - (b) The Athlete's results from 30 November 2013 are disqualified;
  - (c) A period of Ineligibility of six (6) months shall be the consequences imposed pursuant to ADR10.4;
  - (d) That period of Ineligibility is deemed to have commenced from 19 December 2013 and will therefore end at midnight on 19 June 2014.
  - (e) The Athlete's status during the period of Ineligibility shall be as detailed in ADR 10.10.

Dated this 20th day of March, 2014.