

**SA INSTITUTE FOR DRUG FREE SPORT (SAIDS)**

**ANTI DOPING DISCIPLINARY HEARING**

**PLAYER:** MR JOSTA DLADLA

**RESPONDENT REPRESENTATIVE:** MR MICHAEL MURPHY

**DATE:** 6 MAY 2014

**SPORTS FEDERATION:** SOUTH AFRICAN FOOTBALL ASSOCIATION

**PLACE OF HEARING:** EDWARD, NATHAN, SONNENBURGS (ENS) OFFICE,  
SANDTON, JOHANNESBURG

**DISCIPLINARY PANEL ("PANEL"):** MR MARIUS HURTER (CHAIRMAN)  
DR ANDY BRANFIELD (MEDICAL REPRESENTATIVE)  
MS MAMI DIALE (SPORT ADMINISTRATOR)

**PROSECUTOR:** ADV NIC KOCK

**ANTI-DOPING RULE VIOLATION:** ANTI DOPING RULE VIOLATION IN TERMS OF ARTICLE 2.1  
OF THE SAIDS ANTI-DOPING RULES

## **APPLICABLE LAW**

SAIDS is an independent body established under Section 2 of the South African Institute for Drug-Free Sport Act 14 of 1997 (as amended). SAIDS has formally accepted the World Anti-Doping Code ("WADC") adopted and implemented by the World Anti-Doping Agency in 2003. In so doing, SAIDS introduced anti-doping rules and regulations to govern all sports under the jurisdiction of South African Sports Confederation and Olympic Committee, as well as any national sports federation.

The SAIDS Anti-Doping Rules ("the Rules") were adopted and implemented in 2009. These proceedings are therefore governed by the Rules. This SAIDS Anti-Doping Disciplinary Panel has been appointed in accordance with Article 8 of the Rules, to adjudicate whether the Player has violated the said Rules, and if so the consequences of such a violation.

## **PROCEDURAL MATTERS**

The Player was in attendance represented by his attorney Mr Michael Murphy.

The rights of the Player were explained to him, and he acknowledged that he understood his rights, understood the process and was ready to proceed. The process to be followed was explained to the Player and as far as possible conducted in an informal manner.

## **SUMMARY OF EVIDENCE AND ARGUMENT**

The Player was informed through written correspondence addressed to the Player on 9 January 2014 informing the Player of an Adverse Analytical Finding, informing the Player of his rights and the process including the Player's right to have a B sample analysed. The Certificate of Analysis was issued on 22 November 2013, confirming the presence of *Methylhexaneamine* in sample number 2822014 (M).

The charge against the Player was set out in written correspondence addressed to the Player on 27 March 2014. The charge against the Player read as follows:

*You are formally 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 26 October 2013, you provided a urine sample (2822014) during an in-competition test. Upon analysis, the South African Doping Control Laboratory reported the presence of*

*prohibited substances in your urine sample. The substance identified was the Stimulant, Methylhexanamine. Methylhexanamine is categorised under Class S6 "Stimulants" in specific 6(b), Specified Stimulants, on the World Anti-Doping Code 2013 Prohibited List International Standard.*

The Player advised that he understood the charge. The Player had not requested that his B sample be tested. The Player admitted that he was Guilty of the charge as set out, and acknowledged that he understood the implications of such an admission. In his opening, Mr Murphy addressed the panel picturing the circumstances of the Player up to the day of the doping test. The Player identified the product which was shown to him by Adv Kock as identical to the one he used before the match on the day he was tested.

Mr Murphy on behalf of Mr Dladla presented evidence to the Panel through heads of argument, plea explanation and confirmatory statements in support of Mr Dladla.

Summary of the Evidence presented before the Panel was that the Player is a 34 year old professional footballer employed by Kaizer Chiefs Football Club ("Chiefs"). Mr Dladla played football from a young age and his first opportunity to become a professional footballer was in 1997 when he was invited to trials at Jomo Cosmos Football Club. He was not included at the time and the following year was offered an opportunity to join Witwatersrand University Youth Academy team ("Wits") as a youth player, which he accepted. In 1999/2000 season he graduated to the first team and played for Wits professionally until 2002. Mr Dladla was then offered an opportunity to play in Denmark at AGF Aarhus ("Aarhus"). He went to Denmark at the age of 22 and played for Aarhus until 2004, when he decided to return to play for Mamelodi Sundown Football Club ("Downs") in June 2004. He played for Downs until January 2009, when he was offered a contract at Kaizer Chiefs Football Club ("Chiefs") and has been with Chiefs until now. Mr Dladla's contract with Chiefs expires end of June 2014.

During Mr Dladla's time at Aarhus, the setup was extremely professional and he was assessed by the Aarhus medical team with regard to fitness, individual skills, tactical appreciation, relevant sporting rules applicable and diet. The medical team made recommendations to Mr Dladla regarding diet, training programmes and general wellbeing. This included consumption of certain supplements which Aarhus verified complied with sporting rules. The supplement which was advised by Aarhus to Mr Dladla was creatine. He was also advised to use it with a protein shake and took it before, during and after training and also on match days. Mr Dladla testified that he stayed on this mixture for

years to come. Since his Aarhus days he has undergone numerous random drug tests all with negative results. He always used the same mixture of and protein shakes.

During the month of October 2013, Mr Dladla and his younger brother Mr Mpumelelo Dladla ("Mpumi") trained with Mr Hassan. Mr Hassan is a fitness trainer who agreed to assist Mpumi with some strength training to help him recover from an injury. After training one morning they went to a supplement store they regularly go to in Randburg Johannesburg. Mr Dladla needed to buy creatine and a protein shake and Mpumi only needed the latter.

Mr Dladla testified he asked for creatine. Creatine was given to him and although he marked that the container looked slightly different from what he was used to, it is not unusual as he has been provided with creatine previously in many different containers and packaging. Mr Dladla's reality was that he asked for creatine and in his mind, he got creatine. He admitted the only mistake he made was that he never read the label carefully before he purchased, opened and used the creatine. He used the creatine and protein in the same way he always did, consuming what he mixed before and after training and the same mixture before and after matches. He uses the mixture, and has been using the mixture since it was introduced to him, as a recovery drink and never to enhance his performance.

He was named as a substitute for the Pirates match and only got some game time in the last minute of the match. Afterwards he was selected for a random drug test and disclosed all supplements he used to the Doping Control Officer at the time.

Mr Dladla further gave evidence that he did not have comprehensive knowledge of doping matters and remembers talks which addressed healthy eating habits, but no comprehensive talks, training or teachings regarding the use, risk and consequences of Prohibited Substances.

This was confirmed through documentary evidence submitted at the hearing in the form of a Confirmatory Statement by *Mr Thulaganyo Gaoshubelwe*, who is the General Secretary of the South African Football Players Union. In his statement, Mr Gaoshubelwe confirmed that there is a lack of understanding and education regarding doping in football in South Africa and one will not even find reference to anti-doping in the League Constitution or Rules. Further, that there have been no club or league presentations about topics such as doping resulting in footballers not understanding the real risk they are exposed to.

Also presented as documentary evidence was a Confirmatory Statement by Mr Mpumelelo Dladla supporting Mr Dladla's evidence as to how and where the creatine supplement was bought, also

testifying of Mr Dladla's exceptional work and training ethics and the role model he has been to many throughout his career.

In closing, Mr Dladla was sincerely remorseful and acknowledged his guilt taking full responsibility for his negligence. He understands that he is ultimately responsible for what he takes.

## **FINDING OF THE CHARGE**

The presence of the substances identified as *Methylhexaneamine* was proven. The Panel accepts the Player's plea as Guilty of the offence as set out and as such a violation of Article 2.1 of the 2009 Anti-Doping Rules of the South African Institute for Drug-Free Sport.

## **DISCUSSION ON EVIDENCE AND ARGUMENT AS TO SANCTION**

The written heads of argument and plea explanation was of great assistance to the Panel in reaching its decision. Our failure to deal with each and every argument is not out of disrespect but we found it unnecessary to do so as a result of the conclusions we have reached. In a well presented oral argument Mr Murphy further submitted as to what Mr Dladla's upbringing and background was, how he became a professional footballer, his good training habits and the example he is to others, how the banned substance entered Mr Dladla's body and positioned all of this against the anti-doping culture, or the lack thereof, in South Africa's Football culture.

Article 2.1.1 of the Rules reads as follows:

*It is each Player's personal duty to ensure that no Prohibited Substance enters his or her body. Players 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 Player's part be demonstrated in order to establish an anti-doping violation under Article 2.1.*

This Article is the foundation of the strict liability principle that is applicable to anti-doping violations. There is a clear and definitive standard of compliance that all Players are required to adhere to and it is on this basis that they are held accountable. Ignorance of the anti-doping provisions and/or prohibited list cannot be accepted as an excuse. The responsibility that rests on the Player is therefore clear, and the liability that rests on the Player *in casu* has been established.

The Player has been found guilty of a doping offence in respect of the substance identified as *Methylhexaneamine*. *Methylhexaneamine* is categorised under Class S6 "Stimulants" in specific (6b) *Specified Stimulants*, on the World Anti-Doping Code 2013 Prohibited List International Standard.

As such, it is for the Panel to determine whether there are grounds for a reduction in the period of ineligibility in terms of Article 10.4 of the rule. Article 10.4 reads as follows:

**10.4 Elimination or Reduction of the Period of *Ineligibility* for *Specified Substances* under *Specific Circumstances*.**

Where a *Player* or other *Person* can establish how a *Specified Substance* entered his or her body or came into his or her possession and that such *Specified Substance* was not intended to enhance the *Player's* sport performance or mask the use of a performance-enhancing substance, the period of *Ineligibility* found in Article 10.2 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of *Ineligibility* from future *Events*, and at a maximum, two (2) years' *Ineligibility*.

To justify any elimination or reduction, the *Player* or other *Person* must produce corroborating evidence in addition to his or her word which establishes the comfortable satisfaction of the hearing Committee the absence of an intent to enhance sport performance or mask the use of a performance enhancing substance. The *Player* or other *Person's* degree of fault shall be the criteria considered in assessing any reduction of the period of *Ineligibility*.

Article 10.4 sets out specific conditions for the reduction of the *Ineligibility* period to be applied on a *Player* following a finding of guilty for the anti-doping violation as set out above:

1. The *Player* must produce corroborating evidence in addition to his or her word which establishes the comfortable satisfaction of the hearing Committee the **absence of an intent to enhance sport performance** or mask the use of a performance enhancing substance; and
2. The *Player's* **degree of fault** shall be the criteria considered in assessing any reduction of the period of *Ineligibility*.

Considering the evidence presented by the Mr Dladla, there are a number of important issues considered in making this finding:

- He (referring to Mr Dladla) has been taking creatine and protein shakes for more than 12 years;
- He uses the creatine and protein shake as a recovery drink before and after training and on match days;
- He did not have the intention to use the banned substance for performance enhancement and has never heard of *Methylhexaneamine* before he now tested positive;
- He was on the bench for this game against Orlando Pirates Football Club and he knew beforehand he was going to be on the bench;
- He has not received any formal group or individual anti-doping education;
- He has been tested numerous times previously during the past 12 years while using the creatine and protein shake mix and all results were negative;
- This was his first offence;
- He waived his right to have his B sample tested;
- He was open, forthcoming and frank about how the substance entered his body, disclosing it at the time on the Doping Control Form and in giving evidence at the hearing and admitted the only mistake he has made was not reading the label when he purchased the creatine and/or disclosing that he was a professional footballer;
- He was remorseful and indicated that he would definitely engage and in anti-doping rules and regulations and is willing to assist with anti-doping training, seminars or however he can if he is afforded such an opportunity.
- Relevant case law.

In light of the above, the sanction on the finding of Guilty is as follows:

1. The Panel is comfortably satisfied that Mr Dladla's evidence was reliable as to how the prohibited substance entered his body and there is strong corroboration of his evidence by his brother, Mpumi, and the supplement provided to us which has been identified as similar to the one Mr Dladla purchased and used.
2. The Panel is also comfortably satisfied on the evidence submitted that Mr Dladla had no intention to enhance his sporting performance through the use of a prohibited substance. It was clear that Mr Dladla was not aware before he tested positive that the supplement contained *Methylhexaneamine* or even knew what it was.

3. On the facts as set out above, the Panel established a low degree of fault in taking the prohibited substance, not acting intentionally and not grossly negligently.
4. In conclusion, we are in agreement with the submission made by Mr Murphy that a 4 month period of ineligibility to partake in any authorised or organised sport is the appropriate sanction on the facts of this case. Mr Dladla, and his family, has already suffered humiliation and disgrace being provisionally suspended for four months and having his doping charge made public with associated embarrassment, uncertainty and damage to his reputation. All of this should serve as a deterrent for other players against the indiscriminate and careless use of supplements.
5. Mr Dladla is accordingly ineligible to participate and compete in any authorised and organised sport by any amateur or professional league of national or international level event organiser as per Article 10.10 of the Anti- Doping Rules for a period starting 9 January 2014 to 13 May 2014, both dates inclusive.

This done and signed at Stellenbosch, May 2014



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Marius Hurter (Chair)

For and on behalf of the Tribunal Panel