SPORT RESOLUTIONS (UK)

SPECIALIST INDEPENDENT DISPUTE SERVICE

SR/0000120231

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING REGULATIONS OF THE BRITISH BOXING BOARD OF CONTROL**

**Before:**

**Mr. David Casement QC (Chair)**

**Ms. Lorraine Johnson**

**Ms. Blondel Thompson**

**Between:**

**UK ANTI-DOPING LIMITED**

**Applicant**

**-and-**

**ABDUL BARRY AWAD**

**Respondent**

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FINAL DECISION

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1. This case was listed for final hearing on 17 April 2015. The final hearing was listed pursuant to a telephone directions hearing dated 16 December 2014 at which the Chairman gave directions. At the final hearing before the Anti-Doping Tribunal ("the Tribunal") UK Anti-Doping Limited ("UKAD") was presented by Ms Stacey Shevill and the Athlete was represented by Mr Gulnawaz Hussain of Counsel. The Tribunal is grateful to both advocates for the assistance they provided both in their written and oral submissions.

2. Those in attendance at the hearing apart from the Tribunal were:

Ms Stacey Shevill – Advocate – UKAD
Mr Jason Torrance – UKAD

Mr Gulnawaz Hussain – Counsel
Ms Saima Awad – witness
Mr Alan Ruddock – witness
Mr Dominic Ingle – witness
Ms Joanna Parry – Sport Resolutions
Mr Richard Harry – Sport Resolutions
Mr Ian Braid – Sport Resolutions (observer)
Mr Kei Ikuta – Sport Resolutions (observer)

3. Save for the issues identified below the background and procedural history was not in substantial dispute between the parties.

4. The Athlete is a professional boxer registered with the British Boxing Board of Control ("BBBOC") and was at all material times subject to the Anti-Doping Rules of the BBBOC ("ADR"). The Athlete competed in a bout on 20 September 2014 ('the Bout') under the jurisdiction of the BBBOC.

5. After the Bout, a UKAD Doping Control Officer collected a urine sample ('the Sample') from the Athlete. The Sample was split into two separate bottles, which were given reference numbers A1112985 ('the A Sample') and B1112985 ('the B Sample')[1]. Both samples were transported to the World Anti-Doping Agency ('WADA') accredited laboratory in London, the Drug Control Centre, Kings College London ('the Laboratory'). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories.

[1] HB 22

6. Analysis of the Sample showed that that it contained stanozolol-N-glucuronide, a metabolite of stanozolol[2]. Stanozolol (including its metabolites) is classified as an exogenous Anabolic Androgenic Steroid under S1.1(a) of the WADA 2014 Prohibited List[3]. It is a Prohibited Substance.

7. Acting pursuant to the ADR[4], UKAD charged the Athlete with a violation of ADR 2.1 (Presence of a Prohibited Substance) by way of a letter dated 10 October 2014 ('the Notice of Charge')[5].

8. The Athlete responded to the Notice of Charge by way of an email from his representative on 5 November 2014[6]. In this email, the Athlete accepted the finding of a metabolite of stanozolol in his A Sample and thereby admitted a violation of ADR 2.1.

9. The matter was referred to the National Anti-Doping Panel ('the NADP') for resolution on 26 November 2014[7]. The parties attended a directions hearing by way of conference call on 16 December 2014[8] before David Casement QC as Chairman of the Tribunal.

10. Given the admission by the Athlete of the violation of ADR 2.1, the only issue to be resolved by the NADP is the sanction to be applied in respect of the violation.

ADR 10.2 provides –

> 10.2 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

[2] HB 23
[3] HB 169 – 178
[4] HB 97 – 168
[5] HB 1 – 4
[6] HB 5
[7] HB 7 – 8
[8] HB 9 – 12

Prohibited Substances or Prohibited methods) 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. (underlining added)

11. UKAD's position in relation to the admitted violation is that a sanction of a period of Ineligibility of two years must be imposed.

12. The Athlete has been provisionally suspended since 10 October 2014. Pursuant to ADR 10.9 UKAD says it would have no objection were the Panel to find that the period of Ineligibility should run from that date.

13. The Athlete has indicated that he wishes to rely on ADR 10.5.1 or in the alternative ADR 10.5.2, in order that the period of Ineligibility is either eliminated completely, or reduced to a period of Ineligibility of at most one year.

14. UKAD does not accept that either ADR 10.5.1 or ADR 10.5.2 should be applied.

15. The Athlete contends that a supplement which he ingested and which was supplied by his coach and had been used by him for a considerable period was spiked by his own brother following an argument they had and for which the brother has now provided an admission.

*The Rules*

16. The starting point in the ADR is that one of the Core Responsibilities of the Athlete is that he "*comply with these Rules in all respects, including: i. taking full responsibility for what he/she ingests and uses*": ADR 1.3.1.

17. The offence with which the Athlete was charged and to which he has accepted guilt is ADR 2.1:

*The presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with the TUE granted in accordance with Article 4.*

18. As the remainder of ADR 2.1 makes clear it is not necessary for UKAD to establish intent, fault, negligence or knowing Use on the Athlete's part in order to establish that an Anti-Doing Rule Violation (ADRV) has taken place. It is sufficient for the ADRV to be established that a Prohibited Substance was present in the Athletes sample. That is admitted in the present case.

19. To mitigate the standard sanction in this case which is a two year period of Ineligibility the Athlete has advanced evidence and submissions under both ADR 10.5.1 and 10.5.2. There was no significant dispute regarding the principles to be applied. The provisions of the Rules provide as follows (underlining added):

ADR 10.5.1

10.5.1 Elimination of period of Ineligibility based on No Fault or Negligence

If a Participant establishes in an individual case that he/she bears No Fault or Negligence for the Anti-Doping Rule Violation charged, the otherwise applicable period of Ineligibility shall be eliminated. When the Anti-Doping Rule Violation charged is an Article 2.1 violation (Presence of a Prohibited Substance or its Markers or Metabolites), the Athlete must also establish how the Prohibited Substance entered his/her system in order to have the period of Ineligibility eliminated. In the event this Article is applied and the period of Ineligibility otherwise applicable is eliminated, the Anti-Doping Rule Violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 10.7.

ADR 10.5.2

10.5.2 Reduction of period of Ineligibility based on No Significant Fault or Negligence

> If a Participant establishes in an individual case that he or she bears No Significant Fault or Negligence for the Anti-Doping Rule Violation charged, then the period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one-half of the minimum period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than 8 years. When the Anti-Doping Rule Violation charged is an Article 2.1 violation (Presence of a Prohibited Substance or its Metabolites or Markers), the Athlete must also establish how the Prohibited Substance entered his/her system in order to have the period of Ineligibility reduced.

Threshold Criterion

20. The fundamental condition or threshold criterion for establishing the applicability of either ADR 10.5.1 or 10.5.2 is for the Athlete to establish on the balance of probabilities how it was that the Prohibited Substance entered his body. If the Athlete fails to discharge that burden of proof it is unnecessary to go on to consider whether the Athlete has demonstrated on the balance of probabilities that he bears either No Fault or Negligence for the ADRV or no Significant Fault or Negligence for the ADRV.

21. In the present case there was no evidence of spiking directly from the alleged spiker. However evidence was given by the Athlete, the Athlete's sister Samia Awad, the Athlete's coach Dominic Ingle and Mr Alan Ruddock who is employed at Sheffield Hallam University as a Technical Officer – Physiology and who has assisted the Athlete since August 2012 with this fitness and general conditioning.

22. The alleged spiker in this case is said to Abdul Maged-Awad ("Maged"). He was said at the time of the hearing to be in prison on remand for criminal offences. He is said to have admitted spiking the Athlete's supplement at some point in September 2014 following an argument with the Athlete when the latter refused to lend him money. Whilst the dates were not entirely clear it appears from the oral testimony of the Athlete and his sister as well as Mr Ingle that the following rough chronology applied:

(1) during August 2014 the Athlete was at a training camp in the USA. He returned to the UK about three weeks prior to the IBF Youth Title Fight. This places him back in the UK at the end of August/beginning of September 2014;

(2) about one week after the Athlete returned from the USA (therefore circa 7 September 2014) his brother Maged visited the Athlete at his grandparents house where he was living at the time to ask for a loan of £10,000. The Athlete refused and left his brother alone downstairs in the house when the Athlete then went upstairs where his grandparents were. It was later said this was the moment when the spiking took place;

(3) the IBF Youth Title Fight took place on 21 September 2014 and the Athlete provided a sample to the Anti-Doping Control Officer after the fight;

(4) on 10 October 2014 UKAD sent the Notice of Charge letter to the Athlete informing him that his Sample had tested positive for Stanozolol and imposing a provisional suspension with immediate effect;

(5) at some time in late October 2014 Maged was arrested and remanded in custody pending trial;

(6) around the end of October 2014 Samia visited Maged in prison and during the course of a conversation mentioned that the Athlete had failed a drugs test. According to Samia, Maged informed her he had crushed some tablets and put them into the Athlete's drink. Maged also informed Samia that he

did it following an argument over money. Samia was said to be in shock and did not ask why he did it or what tablets or quantities he used. No further details were provided.

(7) on the same day and shortly after the prison visit at which the alleged admission was made by Maged, Samia informed the Athlete in the presence of Mr Ingle of the admission. Mr Ingle then informed the Athlete's solicitors at the time. The Athlete has subsequently changed representation.

(8) it is said by the Athlete that approximately two to three weeks after receiving the Charge Letter from UKAD but before the end of October 2014 he himself visited Maged in prison.

23. At the directions hearing on 16 December 2014 the Chairman directed, amongst other things, that the Athlete serve any witness statements upon which he relied by 13 February 2015.That appears to have been complied with save that an affidavit from Maged dated 2 April 2015 was served after the deadline. The affidavit confirmed Maged was presently held on remand at HMP Doncaster and that a trial was due to commence on 13 April 2015 at Sheffield Crown Court. It stated:

> *"9. I asked Barri for a loan. He refused it and I regret I was very upset about it. I had no job or money and I felt very annoyed that my own brother would not help me. He was successful and I believed that the least he could was to help me.*
> *10. At the time I was taking Stanozolol which I used as a "muscle hardener." I had some tablets. In the heat of the moment when Barri was absent, I crushed up some tablets of same and mixed it with his drink powder which I knew and had seen him use. As far as I can remember there was not a lot of powder left. It was Barri's energy drink power. I put either 1 or 2 tablets in.*
> *11. I knew they test boxers after a fight but I was so consumed with anger at him that I acted as I did. It was a malicious act of which I am ashamed. I didn't care about the consequences.*
> *12. His energy drink was kept with his proteins in the kitchen cupboard."*

24. Maged then went on in his affidavit to state that he had previously informed Samia of his actions during one of her visits but he could not recall the date. It is notable and bizarre that he did not refer to the visit from the Athlete.

25. In this case the alleged spiker has not attended the hearing and his evidence has not been tested in cross-examination. We are satisfied that he is unable to attend for cross-examination given the evidence of his incarceration including a letter dated 9 April 2015 from SERCO Home Affairs based at HMP Doncaster which states that Maged could not be produced to appear before a tribunal. However in circumstances where the alleged spiker cannot, for whatever reason, be the subject of cross-examination to test the veracity of his account it is necessary to look particularly closely at the evidence that is adduced and to ask whether it is internally cogent and consistent and whether it is sufficiently persuasive when viewed along with the other evidence in the case so the Tribunal can be satisfied on the balance of probabilities that the account given by the alleged spiker is true and that the threshold criterion for Articles 10.5.1 and 10.5.2 has been established.

26. We have gained limited assistance from the authorities in this area. Cases of this nature are fact sensitive. The Tribunal's attention was drawn to *WADA vs FILA and Stadnyk*, CAS/2007/A/1399 (HB 179 – 205) and in particular to paragraph 97 *"Under the applicable rules establishing how a prohibited substance entered an athlete's system is a fundamental precondition to the defence of 'no significant fault or negligence".*

27. In *UK Anti-Doping v Gibbs*[9], Gibbs claimed that mephedrone found in his sample had been put into his drink by a friend without his knowledge. His friend appeared before the hearing panel and testified to that effect. The NADP noted (at paragraph 98) that 'the reliability and credibility' of the friend's evidence was of 'crucial importance'. Upon a detailed and rigorous review of that evidence, however, the panel decided that it was not reliable or credible. It rejected the explanation[10].

[9] *UK Anti-Doping v Gibbs,* NADP Decision, 4 June 2010 (HB 206 – 230)
[10] *Gibbs*, paragraphs 99-101

28. Corroborative evidence is of crucial importance in any 'spiking' case. A simple denial of deliberate ingestion and the advancing of a spiking theory will never be enough. In the CAS appeal proceedings[11] in respect of the *Gibbs* case, CAS noted[12] that "*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 the Rules*"[13].

29. In the case of *UK Anti-Doping v Anderson*[14], a boxer alleged that the amphetamine found in his post-fight urine sample had been put into his coffee by his estranged partner prior to the fight without his knowledge. The hearing panel noted that "*in alleged spiking cases, particularly when the substance ingested has clear performance enhancing potential, the tribunal must be especially cautious before accepting an athlete's case because of the obvious potential for collusion, even where the alleged spiker is said to have admitted the spiking*". The NADP noted that various aspects of the spiking claim were implausible, and in particular the fact that there was no independent and objective corroboration of the spiker's confession. It ruled: "*We have come to the conclusion that the Athlete's evidence is not strong enough to prove on the balance of probabilities the case advanced by him, namely that amphetamine entered his system by drinking a cup of coffee deliberately laced with speed by Ms [X] at the Jury's Inn, Sheffield, during the afternoon or evening of 19 October 2012. We do not rule out the possibility that this may have happened, but we are clear that it is not proved by a balance of probability*"[15].

30. The Tribunal has had the benefit of hearing the evidence given by the Athlete, Samia Awad and also Mr Ingle as well as that of Mr Ruddock. Their evidence however does not address directly the question of spiking and how the Prohibited

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[11] CAS/2010/A/2230, *International Wheelchair Basketball Federation v UK Anti-Doping & Simon Gibbs,* Award dated 22 February 2011 (HB 231 – 257)
[12] Paragraph 11.12
[13] See further, paragraph 11.5: 'If an athlete can show that his drink was spiked...it must follow that he himself did not intend in ingesting it to enhance performance. The reverse is, however, not the case. An athlete cannot by asserting, even with what purports to be corroborative testimony to the same effect, that he did not intend to enhance performance thereby alone establishing how the substance entered his body. Seeking to eliminate by such an approach all alternative hypotheses as to how the substance entered his body and thus to proffer the conclusion that what remains must be the truth reflects the reasoning attributed to the legendary fictional detective Sherlock Holmes by Sir Arthur Conan Doyle in "The Sign of Four" but is reasoning impermissible for a judicial officer or body.
[14] *UK Anti-Doping v Anderson,* NADP Decision, 15 May 2013 (HB 258 – 277)
[15] *Anderson,* paragraph 4.7

Substance entered the Athlete's body. It is the account of Maged as set out in his affidavit and through the verbal admission relayed through Samia that the Tribunal is asked to conclude that the threshold criterion is made out.

31. We conclude that on the evidence before this Tribunal the Athlete has not established on the balance of probabilities how the Prohibited Substance entered his body. The explanation and account given by Maged is lacking in such details and cogency so as not to convince the Tribunal that his account is likely to be true. We are conscious that Maged has nothing to lose by making the statement that he has made and taking responsibility for the Athlete ingesting the Prohibited Substance. Maged was in prison on remand and facing serious charges. He is not involved in sport himself. His written evidence taken together with the other evidence in the case therefore calls for close scrutiny. In particular we noted the following aspects of the evidence placed before the Tribunal :

(1) there is no detail in Maged's affidavit as to why it was that Maged had the tablets in his possession whilst visiting his grandparents house, his history of usage of such substances, where he obtained them from and when, what he paid for them and how many he had. This is not an exhaustive list of matters that one would expect to see in circumstances where he is the sole direct witness as to spiking. One would expect to see the full story from an alleged spiker who was, as is said to be the case here, someone who is repentant and wants to co-operate in providing evidence to exonerate his brother.

(2) there is no explanation as to why Maged, after an alleged argument in which he fell out with the Athlete, would use a substance which was at least arguably beneficial to the Athlete. Maged's objective in spiking the Athlete's supplement is not at all clear. His knowledge of the effects of the substance are not set out. Whilst there is some conflict between Mr Wojek's evidence and that of Mr Ruddock's evidence as to what benefits Stanozolol might have had for this Athlete the important question, which would have been tested in cross-examination, was what Maged's considered was its likely effect. He himself described it as a "muscle hardener." The inference from

his affidavit may be that he hoped the Athlete would fail an Anti-Doping Test however such an important point should not be left to inference.

(3) Maged said that he had forgotten what he had done to the Athlete's supplement until Samia reminded him. It must be recalled that this allegedly malicious act took place about one month earlier and it is difficult to believe that he would have forgotten such an incident and needed Samia to trigger his memory.

(4) the evidence given by Samia, who works in the health sector, was less than convincing. She said that she was shocked at Maged's revelation that he had spiked the Athlete's supplement but nonetheless did not ask any questions about why he did it, how many tablets he used, what those tablets were or whether he would communicate with the Athlete to seek to exonerate him. The Tribunal was also unimpressed that Samia was unable to recall much by way of details of that very important prison visit including what other things were discussed or even what date the visit took place on.

(5) if the lack of inquiry from Samia was surprising the lack of inquiry from the Athlete during his visit to the prison to see Maged was simply extraordinary. With knowledge that he had gained from Samia that Maged was responsible for spiking his supplement the Athlete engaged in what could only be described as a disinterested exchange of a few words about it. He did not ask why he did it, what the tablets were or the quantities although Maged did said he would co-operate in giving evidence. The account given by the Athlete in his testimony lacked the sort of conviction one would expect. There was no confrontation of Maged about the situation. There was no attempt to establish the full story of what Maged was said to have done and the impact on the Athlete's career. The exercise was, on the account given to the Tribunal, perfunctory in the extreme. It is also strange that Maged did not refer to this meeting with the Athlete in his affidavit although he did refer to the meeting with Samia.

32. It was argued on behalf of the Athlete that the evidence from Maged was the best that could be obtained in circumstances where he is in prison and the Athlete is in effect dependent upon written evidence from Maged to support the Athlete's case. We cannot accept that. We accept that there is good reason why Maged is not able to give oral evidence and that his inability to attend the Tribunal and give evidence, including having it tested in cross-examination, is not the fault of the Athlete. However, that set of unfortunate circumstances makes it all the more important that the written statement from Maged should be as full and as detailed as possible giving a full account of all relevant matters so as its credibility can be gauged as far as possible. No explanation has been provided to the Tribunal as to why the affidavit was so sparse in respect of detail. There appears to be no reason why much more detail could not have been obtained from the alleged spiker. There is likewise no explanation given as to why the affidavit was late being produced as it was on 2 April 2015 when directions provided for exchange on 13 February 2015 and Maged had said he would co-operate in giving evidence as far back as the end of October 2014.

33. We are particularly concerned that the affidavit from Maged (lacking in detail as it was) was only produced almost one month after service of UKAD's skeleton argument which criticizes the lack of detail in the Athlete's case and gives specific examples of the information that should have been provided. In the absence of any proper explanation as to why the affidavit was not produced earlier and before the deadline it is properly inferred that the affidavit was produced in response to UKAD's skeleton argument and was intended to fill in gaps that UKAD had identified.

*ADR 10.5.1 and 10.5.2*

34. Given the failure to convincingly establish how the Prohibited Substance entered the Athlete's body it is not strictly necessary to go on to consider the question of the applicability of 10.5.1 or 10.5.2.

35. However we consider that if the threshold criterion had been convincingly established we would not have found that the Athlete would have established that he bore No Fault or Negligence:

(1) the Athlete was responsible for what he ingested. Having decided to consume a supplement he must take responsibility for its contents and the possibility that it may be interfered with if unsealed and unprotected;

(2) the Athlete left his supplement in a place namely his grandparents' kitchen in a cupboard to which anyone entering the house including friends and members of his family had access;

(3) the Athlete was aware that his brother Maged had a history of criminal activity and had been in and out of prison since he was very young. He was also aware that it was at least rumoured that Maged was involved in the supply and use of drugs;

(4) the Athlete knew that Maged attended at his grandparents' house and was able to visit whenever he wanted. He would also have known or should have known that Maged would have had free and easy access to his supplements;

(5) the Athlete failed to take any precautions whatsoever to protect his supplements from possible contamination or spiking.

36. The Tribunal is mindful of the guidance given in the notes to the Code in respect of ADR 10.5.1 (underling added):

> *"Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases. To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement*

*contamination); (b) the administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.).*

37. In circumstances where the Athlete is aware that his brother Maged was rumoured to be involved in the supply and use of drugs and that Maged had full and easy access to his supplements it was incumbent upon him to take precautions to protect those supplements. The Athlete took no steps to do so. The Tribunal finds, consistently with the guidance in the notes, that Maged in these circumstances comes with the circle of associates for which the Athlete is responsible. The fact that the Athlete is said not to get on with his brother is irrelevant. The Athlete was clearly unable to establish that he bears No Fault or Negligence.

38. As to whether the Athlete would have been able to bring himself within ADR10.5.2 by establishing he bears No Significant Fault or Negligence the Tribunal finds that he would not. The clear risks associated with the Athlete's brother and his free and easy access to the house in which the Athlete lived and in particular to his supplements meant that the Athlete's guard should have been raised. To fail to take any precautions whatsoever to ensure that he protected his supplements in such circumstances as are identified above leads the Tribunal to find that the Athlete bears Significant Fault or Negligence.

39. The Tribunal heard from Mr Ingle about the work that he and others do at the Wincobank gym in Sheffield. Mr Ingle gave an account of the history behind the gym that was founded by his father and the care that is shown to those who train in the gym. He also explained the importance of the gym to the wider community in Sheffield and the success that it has enjoyed in producing champions. The Tribunal was impressed with the work undertaken by Mr Ingle and others at the gym. Mr Ingle's evidence was however background and did not relate directly to the issues in the present case.

40. A final word about the evidence adduced in respect of the Prohibited Substance itself. Mr Ruddock on behalf of the Athlete gave his evidence in a very clear and measured way. The gist of his evidence was that deliberate steroid use by the Athlete was inconsistent with the weight category the Athlete was in. In short the Athlete wanted to lose weight rather than put it on. UKAD adduced the evidence of Nick Wojek in the form of a statement dated 27 February 2015. The gist of his evidence was that Stanozolol is an appealing anabolic steroid to use in weight classification sport since it does not convert into oestrogen and produce certain side effects as other steroids. It can also be used concurrently with a restricted calorie intake to lessen the detrimental effect on power by minimising the inevitable losses in lean body mass that occur when employing weight-making strategies. At the hearing Mr Ruddock gave further evidence in oral testimony to the take issue with one particular sentence in Mr Wojek's statement. The gist of Mr Ruddock's assertion was that it was not inevitable that there would be losses in lean body mass that occur when employing weight-making strategies. We accept that Mr Ruddock was trying to assist the Tribunal and was measured in his approach. However Mr Ruddock was on his own admission unable to speak of the specific characteristics of Stanozolol and whilst it was not possible to form firm views about its impact on this Athlete, the Tribunal accepts Mr Wojek's assertion that it is an appealing anabolic steroid for those involved in weight classification sport. This view was not determinative of our conclusion in respect of the issues dealt with above.

Conclusion

41. On the evidence before the Tribunal the Athlete has failed to establish on the balance of probabilities how the Prohibited Substance entered his body. Even if the threshold criterion had been established by the Athlete the Tribunal finds that the Athlete, in the circumstances alleged, failed to take reasonable or indeed any precautions to protect his supplements from contamination or being spiked.

42. The standard sanction for the offence committed and which shall apply in this case is a suspension for two years. The Athlete made a prompt admission of his commission of an ADRV and in those circumstances we are empowered to determine and do so determine that the period of Ineligibility shall commence from the date the ADRV occurred which in the case of an ADR 2.1 violation is the date the sample was collected: ADR 10.9.2.

43. The Athletes period of Ineligibility shall be a period of two years commencing on 20 September 2014.

44. The Tribunal also applies the provision of the new 2015 Code in respect of the Athlete's return to training as an application of the *lex mitior* principle. ADR10.12.2 of the 2015 Code shall be applied to the present case and the Athlete shall be allowed to return to training no longer than two months before the expiry of this period of ineligibility.[16]

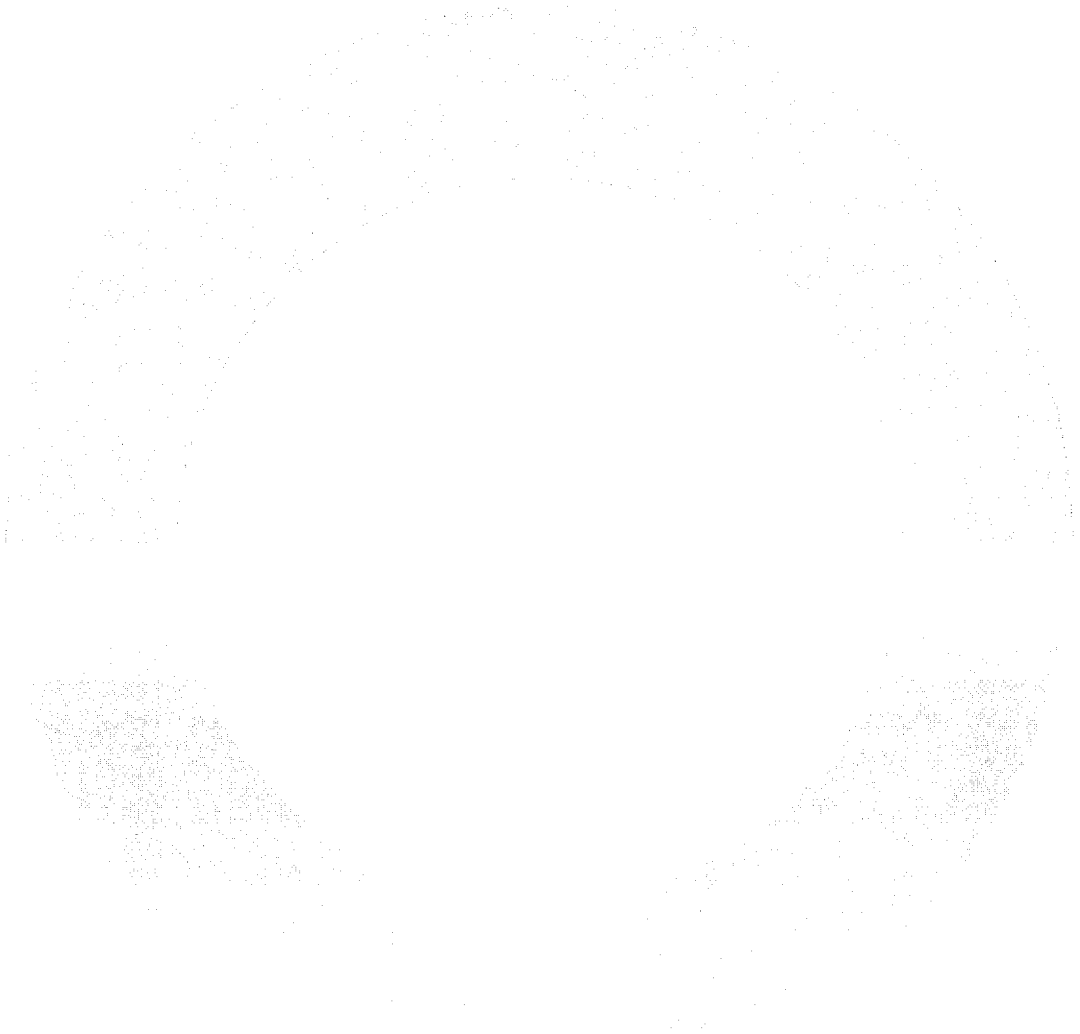
45. The Athlete will be subject to the usual consequences in connection with the ADRV including the disqualification of his result of the Bout and the forfeiture of any prize as set out in ADR 9.

46. In accordance with ADR 13 the Athlete, UKAD, BBBOC and WADA have a right to appeal this decision. Any appeal must be lodged in writing within the time limits set out in ADR 13.

[16] NADP Decision: UK Anti-Doping v Lee Evans (29.1.15)

11 May 2015

Signed by the Chairman on behalf of the Tribunal



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