

## Issued Decision

# UK Anti-Doping and Sybren Hoogland

### Disciplinary Proceedings Under the Anti-Doping Rules of British Rowing

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the British Rowing Anti-Doping Rules (the 'ADR'). It concerns an anti-doping rule violation committed by Mr Sybren Hoogland contrary to the ADR and records the Consequences to be applied in respect of that anti-doping rule violation.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

### Background and Facts

1. British Rowing is the governing body for the sport of rowing in the United Kingdom. UKAD is the National Anti-Doping Organisation for the United Kingdom.
2. Mr Hoogland is a 21 year-old rower and a member of Oxford Brookes University Boat Club. On 9 May 2015, NADO Flanders collected an In-Competition Sample from Mr Hoogland at the Ghent International Regatta ('the Sample'). The Regatta was organised by the Royal Club Nautique du Gand and conducted under the rules of Koninklijke Belgische Roeibond (Royal Belgian Rowing) and in line with Fédération Internationale des Sociétés Aviron ('FISA') Rules. By virtue of his participation in the Event, Mr Hoogland was subject to the anti-doping rules of Royal Belgian Rowing ('the Belgian ADR').
3. The Sample was submitted for analysis to the DoCo Lab, University of Ghent, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory'). On 20 May 2015, the Laboratory reported to NADO Flanders an Adverse Analytical Finding for benzoylecgonine, a Metabolite of Cocaine ('the Finding').
4. Cocaine is classified as a Non-Specified Stimulant under S6(a) of the WADA 2015 Prohibited List. Cocaine (including its metabolites) is prohibited In-Competition only.
5. Mr Hoogland does not have, nor has he ever held, a Therapeutic Use Exemption in respect of benzoylecgonine.
6. NADO Flanders advised UKAD that the Belgian ADR provide that Results Management may be passed to an Athlete's National Federation, if the Athlete can be classed as an 'elite level' Athlete. After consultations with British Rowing, UKAD and NADO Flanders agreed that Mr Hoogland could be classified as an 'elite level' Athlete. The matter was passed by NADO Flanders to British Rowing for the purposes of Results Management.
7. Pursuant to the ADR, UKAD is empowered to conduct results management in respect of this case on behalf of British Rowing.

8. On 31 July 2015 UKAD issued Mr Hoogland with a Notice of Charge ('the Charge'). The Charge confirmed the commission of an anti-doping rule violation pursuant to ADR Article 2.1 (the Presence of a Prohibited Substance in the Sample). The Charge explained the facts relied on in support of the allegation, the details of the Charge, the procedure for analysis of the B Sample and the Consequences of an admission or proof of the anti-doping rule violation.
9. Following receipt of the Charge, Mr Hoogland admitted that he had committed an anti-doping rule violation pursuant to ADR Article 2.1 and waived his right to have the B Sample analysed.
10. This decision records the Consequences to be applied in respect of that anti-doping rule violation.

### **Admission and Consequences**

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11. ADR Article 2 provides that:

The following constitutes an Anti-Doping Rule Violation:

- 2.1 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 a TUE granted in accordance with Article 4.

12. ADR Article 7.7.4 provides:

- 7.7.4 In the event that (...) the Athlete or other Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by UKAD (or is deemed to have done so in accordance with Article 7.7.1), neither B Sample analysis nor a hearing is required. Instead, the NADO shall promptly issue reasoned 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 Athlete or other Person and to each Interested Party, and shall publish the decision in accordance with Article 8.4.

13. ADR Article 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 a Prohibited Method.

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete's or other Person's first anti-doping offence shall be as follows, subject to the potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

- 10.2.1 The period of Ineligibility shall be four years where:

- a) The Anti-Doping Rule Violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the Anti-Doping rule Violation was not intentional.
- b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD can establish that the Anti-Doping Rule Violation was intentional.

- 10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

14. As regards the meaning of 'intentional', ADR Article 10.2.3 states:

- 10.2.3 As used in Articles 10.2 and 10.3, the term 'intentional' is meant to identify those Athletes or other Persons who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or

result in an Anti-Doping Rule Violation and manifestly disregarded that risk. An Anti-Doping Rule Violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An Anti-Doping Rule Violation for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was used Out-of-Competition in a context unrelated to sports performance.

(emphasis added)

15. Mr Hoogland provided a detailed explanation for his anti-doping rule violation by way of an email dated 30 August 2015. In short, Mr Hoogland explained that he had ingested cocaine at a party in the early hours of 7 May 2015. He asserts that was not expecting to race at the Regatta on 9 May 2015. In the evening of 7 May 2015, however, Mr Hoogland was told that he was needed to race after all.
16. Mr Hoogland asserts that when he ingested cocaine, he was not thinking of himself as an athlete and at no point did he consider the 'obvious sporting implications of going on a large night out.' Mr Hoogland further states that this type of foolishness was out of character for him and influenced by the fact that he had consumed a large quantity of alcohol.
17. In accordance with ADR Article 10.2.1, the Period of Ineligibility to be applied in respect of the finding of benzoyllecgonine in the Sample is four years, unless Mr Hoogland can establish that the anti-doping rule violation was not intentional. In that regard, Mr Hoogland has admitted that, despite not taking any precautions as to his deliberate ingestion of a Prohibited Substance, he ingested cocaine on a social night out with friends in circumstances unrelated to sport. He asserts that he had no expectation of being involved in competitive rowing at the time of this ingestion and, had this been in his contemplation, he says he would not have ingested cocaine.
18. In this regard, the final sentence of ADR Article 10.2.3 is engaged. Benzoyllecgonine is a Metabolite of Cocaine, a Non-Specified substance prohibited only In-Competition. Mr Hoogland states that his use of cocaine was Out-of-Competition, in a context unrelated to sports performance. UKAD accepts this. In accordance with ADR Article 10.2.3, the Presence of benzoyllecgonine in Mr Hoogland's sample shall not be considered intentional as that term is defined in the ADR.
19. The Consequences to be imposed are therefore specified by ADR Article 10.2.2 to be a period of Ineligibility of two years.
20. Mr Hoogland accepts these Consequences and has not sought to rely on either ADR Article 10.4 or ADR Article 10.5 to reduce the period of Ineligibility. ADR Article 10.6.3 does not apply.

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

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21. ADR Article 10.11.3 provides:

10.11.3 Credit for Provisional Suspension or period of Ineligibility Served

Any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Athlete or other Person shall be credited against the total period of Ineligibility to be served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive credit for such period of ineligibility served against any period of Ineligibility which may ultimately be

imposed on appeal. To get credit for any period of voluntary Provisional Suspension, however, the Athlete or other Person must have given written notice at the beginning of such period 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.

Mr Hoogland has been subject to a Provisional Suspension since 4 June 2015 (the date on which he was first notified of the finding by NADO Flanders).

22. Furthermore, ADR Article 10.11.2 provides:

10.11.2 Timely admission

Where the Athlete or other Person promptly (which means, in any event, before he/she competes again) admits the Anti-Doping Rule Violation after being confronted with it by UKAD, the period of Ineligibility may start as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred

23. Mr Hoogland admitted the anti-doping rule violation promptly for the purposes of ADR Article 10.11.2. The period of Ineligibility is therefore deemed to have commenced on 9 May 2015 and will expire at midnight on 8 May 2017.

24. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Hoogland shall not be permitted to participate in any capacity in a Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by:

- British Rowing or by any body that is a member of, or affiliated to, or licensed by British Rowing
- any Signatory (as that term is defined in the ADR)
- any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation
- any professional league or any international- or national-level Event organisation
- any elite or national-level sporting activity funded by a government agency

25. Mr Hoogland, British Rowing, FISA and WADA have a right of appeal against this decision or any part of it in accordance with ADR Article 13.4.

26. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website.

### Summary

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27. For the reasons given above, UKAD has issued this decision, which records that:

- Mr Hoogland has committed an anti-doping rule violation pursuant to ADR Article 2.1
- A period of Ineligibility of two (2) years is imposed pursuant to ADR Article 10.2.2
- the period of Ineligibility is deemed to have commenced from 9 May 2015 and will end at midnight on 8 May 2017
- Mr Hoogland's status during the period of Ineligibility shall be as detailed in ADR Article 10.12

Dated this 7<sup>th</sup> day of October 2015.