

Decision of the Japan Anti-Doping Disciplinary Panel

Name of Athlete: X  
Sport: Cycling/Track

Pursuant to the decision of the Hearing Panel convened for Case 2014-009, the Japan Anti-Doping Disciplinary Panel has made the following decision with respect to this case.

April 21, 2015  
Japan Anti-Doping Disciplinary Panel  
Chair: Toshio Asami

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Case 2014-009: Hearing Panel Decision

The Hearing Panel for Case 2014-009, which is composed of the following members appointed by the Chair of the Japan Anti-Doping Disciplinary Panel pursuant to Article 8.3.2 of the Japan Anti-Doping Code (the “Japan Anti-Doping Code” as referred to herein means the Japan Anti-Doping Code of February 23, 2009, Version 2.0; hereinafter, the “Code”), has made the following decision concerning this case pursuant to the results of the hearing (the “Hearing”) held on April 9, 2015.

April 21, 2015  
Kazuki Shishido \_\_\_\_\_  
Katsumi Tsukagoshi \_\_\_\_\_  
Noboru Mesaki \_\_\_\_\_

Decision:

- A violation of Article 2.1 of the Code is found to have occurred.
- In accordance with Articles 9 and 10.8 of the Code, the individual results obtained from the date of sample collection until the commencement date of the provisional suspension period (including the competition results at the 45<sup>th</sup> JBCF ALL JAPAN TRACK CHAMPIONSHIP) shall be disqualified, and all medals, points and awards acquired during the period above shall be forfeited.
- In accordance with Articles 10.4, 10.9.1 and 10.9.2 of the Code, ineligibility shall be imposed for a period of three months starting from March 25, 2015.

Reasons:

- While the new Japan Anti-Doping Code has been in effect since January 1, 2015, Article 25.7 of said code sets forth that said code shall not apply retroactively to matters pending before the effective date of January 1, 2015. In this case, although the notice of provisional suspension was sent on March 25, 2015, sample collection from the Athlete and the subsequent result of testing positive was conducted within 2014; therefore, the Code applies to this case.
- The substance “tulobuterol” that was detected from the Athlete in in-competition testing conducted on November 16, 2014 is designated as a prohibited substance under “S3. Beta-2 Agonists” in The 2014 Prohibited List International Standard (the “Prohibited List”), and it constitutes a “prohibited substance” as prescribed in Article 2.1 of the Code. In response to this, the Athlete neither requested an analysis of the B Sample, nor contested the test results or the process and procedure that led to those results at the provisional hearing or the hearing.
- Accordingly, the athlete can be found to have violated Article 2.1 of the Code (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) in this case, and it is appropriate to consider that, in accordance with Articles 9 and 10.8 of the Code, the individual results obtained from the date of sample collection until the commencement date of the provisional suspension period (including the competition results at the 45<sup>th</sup> JBCF ALL JAPAN TRACK CHAMPIONSHIP) shall be disqualified, and all medals, points and awards acquired during the period above (if any) shall be forfeited.
- Furthermore, the substance above that was detected in this case, while on the one hand constituting a “prohibited substance,” also is a “specified substance” under the Prohibited List. Based on the testimony of JADA, the Athlete himself, the TUE application form and the attachments thereto submitted by the Athlete (hereinafter, the “TUE Application Form, etc.”), the documents submitted by JADA (the Doping Control Form, etc.) as well as the entire purport of the Hearing, the following facts can be found.
  - (1) The tulobuterol that was detected in this case can be reasonably assumed to have been contained in the “Hokunalin tape” which was prescribed by the family doctor and which the Athlete stuck to himself on and after such date.
  - (2) According to the Athlete’s claim, the Athlete used the “Hokunalin tape” above for the purposes of alleviating his asthmatic symptoms. Such claim of the Athlete is also supported by the TUE Application Form, etc., and no contrary evidence can be found in particular. Therefore, the Athlete’s use of such substance in this case can be found to have been for the purposes of alleviation of his asthmatic symptoms and not for the purposes of enhancing sports performance.
  - (3) In this regard, the Athlete states that he endeavored to receive prescription of medicine not containing prohibited substances as can be seen in the fact that he clarified, upon receiving medical treatment by the doctor, that he was an athlete possibly subject to a doping test, and that he reasoned, upon using the “Hokunalin tape”, that it did not contain prohibited

substances because it was prescribed by the doctor and because it was not an oral medication. However, such family doctor cannot be said to necessarily have had special knowledge of anti-doping regulations and prohibited substances, and it is unavoidable to find the Athlete to have been in fault in that, regardless of such fact, he did not realize the possibility of the “Hokunalin tape” containing a prohibited substance and, relying solely upon the decision of the doctor, carelessly used the prohibited substance without confirming with other professionals.

- Taking into consideration the above circumstances and the fact that this was a first violation, it is appropriate, upon comprehensively taking into account the Athlete’s degree of fault, to impose a three-month period of ineligibility pursuant to Article 10.4 of the Code.
- In this case, the Athlete has been under a provisional suspension pursuant to Article 7.6.1 of the Code from the March 25, 2015 notice date until the time of the present decision (a provisional hearing was held on April 9, 2015 concerning the relevant provisional suspension). Accordingly, pursuant to Article 10.9.2 of the Code, the commencement date for the period of ineligibility shall be March 25, 2015.

Based on the foregoing, we have made our decision as stated above.

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