

March 4, 2016

To: X
Case 2015-006
Bodybuilding

From: Hidenori Suzuki, President
Japan Anti-Doping Agency

Decision Based on Consent

The Japan Anti-Doping Agency (hereinafter, “JADA”) has made the following decision with respect to this case in accordance with the provisions of Article 7.10.3 of the Japan Anti-Doping Code (hereinafter, the “Code”).

Decision:

- A violation of Article 2.4 of the Code is found to have occurred.
- In accordance with Articles 10.3.2, 10.7.1(c) and 10.11.3.1 of the Code, a period of ineligibility shall be imposed for a period of four years starting from December 4, 2015.

Reasons:

- As a result of being subject to a period of ineligibility of two years by the decision of the Japan Anti-Doping Disciplinary Panel dated September 19, 2013 (Case 2013-002: hereinafter, the “Previous Case”), the Athlete was included in the Registered Testing Pool of JADA in accordance with Article 10.11 of the then-effective Japan Anti-Doping Code and Article 11.2.3 of the International Standard for Testing, as described in the notice dated October 17, 2013, and therefore was obliged to regularly submit his whereabouts information to JADA from the following quarter (i.e. the following quarter being from January 2014 through March 2014) in accordance with Article I.1.1 of Annex I of the International Standard for Testing and Investigations (hereinafter, the “ISTI”) (prior to January 1, 2015, Article I.1.1 of Annex I of the ISTI used to be Articles 11.1.3 and 11.1.4 of the International Standard for Testing) and Article 5.6.1 of the Code (prior to January 1, 2015, Article 5.6.1 of the Code used to be Article 5.5.1 of the then-effective Japan Anti-Doping Code).
- However, the Athlete failed to submit his whereabouts information in compliance with the requirements set forth in Article I.3 of Annex I of the ISTI in any of the following quarters.

- (1) The quarter from January 2015 through March 2015;
- (2) The quarter from July 2015 through September 2015;
- (3) The quarter from October 2015 through December 2015

- Each of the three omissions (or non-compliance with the obligation to submit) by the Athlete above fall under a failure to perform his obligation to submit accurate and complete whereabouts information capable of identifying the whereabouts of the Athlete for the purposes of testing the Athlete at the times and locations indicated in the Whereabouts Filing in accordance with Article I.3 of Annex I of the ISTI, and therefore constitutes a “Filing Failure” defined in the ISTI.

Since these three “Filing Failures” occurred within a twelve-month period calculated from the date of occurrence of the first Filing Failure of January 1, 2015 (please refer to Article I.1.3 of Annex I of the ISTI as well as the comments thereof), these series of “Filing Failures” fall under “three filing failures, as defined in the International Standard for Testing and Investigations, within a twelve-month period by an Athlete in a Registered Testing Pool” referred to in Article 2.4 of the Code. Therefore, the Athlete is found to have violated of Article 2.4 of the Code in this case.

- In response to the above, the Athlete neither contested any of the Filing Failures, nor raised any assertion regarding facts supporting the lack of (Significant) Negligence or Fault on his part with respect to his failure to submit (sufficient) whereabouts information in relation to such act of violation.

- In light of the circumstances above, if this violation is treated as a first violation, it is appropriate to impose upon the Athlete a period of ineligibility of two years in accordance with the provisions of Article 10.3.2 of the Code.

- The Athlete is found to have violated Article 2.1 of the then-effective Japan Anti-Doping Code (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) on the grounds that a Prohibited Substance (clenbuterol: “S1.2 Other Anabolic Agents” referred to in The 2013 Prohibited List International Standard) was detected from the Athlete in In-Competition testing conducted on August 11, 2013 in the Previous Case. In accordance with Article 25.7.1 of the Code, since the Previous Case is counted as a first violation, this case is recognized to be a second violation of the Code within ten years. In addition, to mention as a premise for the application of Article 10.7.1(b) of the Code mentioned below, if the Code is assumed to apply to the Previous Case, it is recognized that the period of ineligibility would have been four years in accordance with Article 10.2.1 of the Code (the Athlete is not recognized to have been able to prove that the violation in the Previous Case was not intentional). Therefore, Article 10.7.1 of the Code is applied, and (c), which is the longest period from among Article 10.7.1(a) [six months],

Article 10.7.1(b) [one-half of the four-year period which is the period of ineligibility imposed in the Previous Case (the period of ineligibility which would have been imposed on the assumption that the Code was applied due to the application of Article 25.7.5 of the Code), i.e. two years] and Article 10.7.1(c) [twice the two-year period of ineligibility provided by Article 10.3.2 of the Code considered above, as the period of ineligibility applicable if the second violation of the Code were treated as a first violation, i.e. four years], is selected.

- Therefore, in accordance with the provisions of Article 10.7.1(c) of the Code, it is appropriate to impose upon the Athlete a period of ineligibility of four years.
- In this case, the Athlete has been under a provisional suspension pursuant to Article 7.9.2 of the Code from the date of notice of December 4, 2015 by the responsible person at JADA until the time of the present decision. Accordingly, pursuant to Article 10.11.3.1 of the Code, the commencement date for the period of ineligibility shall be December 4, 2015.
- In this case, the Athlete has admitted the violation, waived the hearing, and accepted the Consequences that have been offered by JADA as of the date first written above, pursuant to Article 7.10.1 of the Code. Therefore, the hearing by the Japan Anti-Doping Disciplinary Panel shall not be convened in this case, and this decision shall be issued under the name of JADA pursuant to Article 7.10.3 of the Code.

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