

Decision of the Japan Anti-Doping Disciplinary Panel

Name of Athlete: X
Sport: Bodybuilding

Pursuant to the decision of the Hearing Panel convened for Case 2013-001, the Japan Anti-Doping Disciplinary Panel has made the following decision with respect to this case.

September 1, 2013
Japan Anti-Doping Disciplinary Panel
Chair: Toshio Asami

Case 2013-001: Hearing Panel Decision

The Hearing Panel for Case 2013-001, 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 “Code”), has made the following decision concerning this case pursuant to the results of the hearing held on September 1, 2013.

September 1, 2013
Takahiro Yamauchi _____
Katsumi Tsukagoshi _____
Tetsuhiko Kimura _____

Decision:

- A violation of Article 2.1 of the Code is found to have occurred.
- In accordance with Article 9 and Article 10.1.1 of the Code, each of the competition results for the competition (July 21, 2013: The 17th Japan Weight-Class Bodybuilding Championship) are disqualified.
- In accordance with Article 10.2 and Article 10.9.2 of the Code, ineligibility shall be imposed for a period of two years starting from August 16, 2013.

Reasons:

- Among the two substances which were detected in in-competition testing (at the 17th Japan Weight-Class Bodybuilding Championship) performed on July 21, 2013, “clenbuterol” is designated as a prohibited substance under “S1.2 Other Anabolic Agents” and “methylhexaneamine” is designated as a prohibited

substance under “S6. Stimulants” in The 2013 Prohibited List International Standard (the “Prohibited List”) respectively, and therefore these substances constitute “prohibited substances” 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 or procedure which led to these results at the provisional hearing or the hearing.

- Accordingly, the Athlete can be found to have violated Article 2.1 of the Code in this case.
- Among the detected substances mentioned above, methylhexanamine constitutes “prohibited substances” and “specified substances” under the Prohibited List, while on the other hand the other substance that was detected, clenbuterol, does not constitute “specified substances” under the Prohibited List. Therefore, in this case, we must deny the application of Article 10.4 of the Code, which provides for the elimination or reduction of the period of ineligibility for specified substances.
- We therefore consider the possibility of application of Article 10.5 of the Code, which provides for the elimination or reduction of the period of ineligibility based on exceptional circumstances. Based on the testimony of JADA, the Athlete himself and the persons related to the sports association and written opinion submitted by the Athlete, the following facts can be found.
 - (1) The Athlete has undergone at least seven doping tests on and after 2008, and no Adverse Analytical Findings have been found. No violation was detected either in the testing performed on July 7, 2013, which was fifteen days prior to this testing.
 - (2) The Athlete claims that he did not intentionally take the prohibited substances, and raises the following possible routes for the prohibited substances to have entered his system. He claims that (i) clenbuterol may have been mixed in the pork, beef and chicken purchased at the stores nearby his house, as clenbuterol is sometimes found in pork produced in China. However, the food taken by the Athlete since a few days prior to the event were beef produced in Australia and chicken produced domestically, prepared by himself, and no evidence can be found for the Athlete of having taken meat reported to contain clenbuterol, including pork produced in China. Therefore, the method of how clenbuterol entered into his system cannot be found to be established.
 - (3) The Athlete also claims that (ii) he took “Hydroxycut HardCore Pro Series”, a diet supplement produced by MuscleTech, and that although this product’s table of ingredients does not contain any description of either clenbuterol or methylhexanamine, said manufacturer sells products containing methylhexanamine, so this substance may have been mistakenly mixed in

this product. However, the Athlete has not submitted the results of his own analysis of this product, nor does he otherwise make any claim that the detected substance mentioned above was contained in this product (the Athlete has been taking other supplements produced overseas since previously, and the possibility of methylhexaneamine being mixed in these supplements cannot be denied; however, he did not make any attempt to establish such matters either). Consequently, the method of how methylhexaneamine entered into his system cannot be found to have been established. Even if methylhexaneamine had entered into the Athlete's system through these supplements, we cannot deny the existence of significant fault or negligence on the Athlete's part, in that he carelessly took supplement produced overseas with the recognition that he would possibly be subject to a doping test.

- For the reasons stated above, the elimination or reduction of the period of ineligibility for specific substances as prescribed in Article 10.5.1 or 10.5.2 of the Code cannot be recognized.
- On the other hand, no evidence can be found for the Athlete of having intentionally taken any prohibited substance, as he took daily precautions when taking food with the recognition that he may possibly be subject to a doping test. Although the Athlete may be found to have been in significant fault or to have been negligent in carelessly taking supplement produced overseas, no aggravating circumstance can be found to increase the period of ineligibility prescribed in Article 10.6 of the Code.
- Taking into consideration that the present violation is a first violation, it is appropriate to impose a two-year period of ineligibility pursuant to Article 10.2 of the Code.
- The Athlete in this case has been under provisional suspension pursuant to Article 7.6.1 of the Code during the period from the August 16, 2013 notice date to the time of the present decision (a provisional hearing was held on September 1, 2013 concerning the relevant provisional suspension). Accordingly, pursuant to Article 10.9.2 of the Code, the Athlete shall be subject to a period of ineligibility commencing August 16, 2013.

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