

IN THE MATTER OF PROCEEDINGS BROUGHT  
UNDER THE ANTI-DOPING RULES OF  
CYCLING TIME TRIALS

***Before:***

Mark Hovell (Chairman)

Lorraine Johnson

Carole Billington-Wood

B E T W E E N:

UK ANTI-DOPING

***Anti-Doping Organisation***

- and -

MR STEPHEN COSTELLO

***Respondent***

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DECISION OF THE NATIONAL ANTI-DOPING PANEL

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## I. Introduction

- 1 The Applicant is the national anti-doping organisation for sport in the UK and has jurisdiction to prosecute this case on behalf of Cycling Time Trials ("CTT"). CTT is the National Governing Body for cycling time trials in England and Wales.
- 2 Mr Stephen Costello (the "Respondent") is a sixty year old cyclist who participated in the Stone Wheelers 25-mile race (the "Event") on 20 May 2017 in Staffordshire under the auspices of the CTT. The Respondent was at all times subject to the 2015 Anti-doping Rules of CTT (the "ADR").
- 3 Pursuant to the ADR, a urine sample was provided by the Respondent after the Event. This sample returned an Adverse Analytical Finding ("AAF") for:
  - (a) 1,3-Dimethylbutylamine ("1,3DMB") which is prohibited under s.6.b of the World Anti-Doping Agency ("WADA") 2017 Prohibited List ("WADA 2017 Prohibited List"). It is a Specified Substance that is prohibited In-Competition only.
  - (b) Ostarine which is listed under s.1.2 of the WADA 2017 Prohibited List. It is a non-Specified Substance that is prohibited at all times.
  - (c) Both the sulfone and sulfoxide oxidation/metabolic products of GW1516 ("GW1516") which is listed under s.4.5 of the WADA 2017 Prohibited List. It is a non-Specified Substance that is prohibited at all times.
- 4 The Presence of these Prohibited Substances in the Respondent's urine sample constitutes a violation of Article 2.1 of the ADR. The Respondent accepted that he has committed an Anti-Doping Rule Violation ("ADRV"). The Applicant understands this to be the Respondent's first ADRV.
- 5 By letter dated 16 June 2017, the Respondent was charged with a violation of Article 2.1 of the ADR and has been provisionally suspended since this date.
- 6 Following directions issued by the Chairman, this case was heard in Manchester on 25 September 2017. The Applicant was represented by Stacey Cross and James Laing. The Respondent was represented by Philip Clemo, of counsel. The Tribunal

would like to put on record its thanks to the representative of the Respondent for representing him on a pro bono basis.

## II. Jurisdiction

7 As stated, CTT is the National Governing Body for cycling time trials in England and Wales. CTT records on its website that '[t]he anti-doping rules of Cycling Time Trials are the UK Anti-Doping Rules published by UK Anti-Doping (or its successor) as amended from time to time. Such rules shall take effect and be construed as the rules of Cycling Time Trials.'

8 CTT organises a number of time trial events which individuals can only compete in if they are a member of a club affiliated to CTT. The Respondent competed in the Event for Abbotsford Park RC, who were affiliated to CTT and listed as such on the CTT website.

9 Article 1.2.1 of the ADR provides that these rules shall apply to:

(a) *"All Athlete and Athlete Support Personnel who are members of the NGB and/or of member of affiliate organisations or licensees of the NGB (including any clubs, teams, associations or leagues);*

(b) *All Athlete and Athlete Support Personnel participating in such capacity in Events, Competitions and other activities organised, convened, authorised or recognised by the NGB or any of its member or affiliate organisations or licensees (including any clubs, teams, associations or leagues), wherever held[...]"*

10 Accordingly, by virtue of (i) the Respondent's participation as a member of the Abbotsford Park RC; and (ii) his participation in the Event, the Respondent was bound by the ADR.

11 In accordance with Article 7.1 of the ADR, the Applicant acts as the Results Management Authority with responsibility to prosecute this case.

12 For all of the above reasons, it follows that the Tribunal therefore has jurisdiction to determine this matter. For completeness, the parties confirmed at the hearing that they had no issue with the constitution of the Tribunal.

### III. Background

- 13 On 20 May 2017, the Respondent took part in the Event in Staffordshire. The Respondent completed the race in 59:21 minutes, finishing in 95th place.
- 14 Following the race, a Doping Control Officer ("DCO") notified the Respondent he had been selected to provide an In-Competition test and the Respondent provided a urine sample accordingly. Assisted by the DCO, the Respondent split the sample into two separate bottles which were given reference numbers A1132351 (the "A Sample") and B1132351 (the "B Sample") (together "the Samples"). The Samples were sealed at 18:06 hours.
- 15 Following analysis at the Drug Control Centre, Kings College London which is a WADA accredited laboratory in London (the "Laboratory"), the A Sample returned the AAF detailed above.
- 16 The Applicant conducted a review which confirmed that there had not been a departure from the applicable International Standards that could reasonably have caused the AAF.
- 17 The Respondent did not have a Therapeutic Use Exemption ("TUE") to justify the presence of any of the Prohibited Substances in his Sample.
- 18 The matter was referred to the National Anti-Doping Panel ("NADP") for resolution on 28 June 2017.
- 19 The Respondent provided a Response to the Notice of Charge by email correspondence. The Response includes a Witness Statement from himself dated 31 August 2017, his wife, Carol Costello, dated 31 July 2017, and email correspondence from the Respondent dated 10 August 2017 responding to further questions from the Applicant.
- 20 In summary, the Respondent explained the Presence of the Prohibited Substances was due to the fact that, in the lead up to the Event, he had consumed a drink, or drinks, prepared by his wife into which, without his knowledge, she had added a number of supplements, namely "GW Stamina", "Ostacize", "T9 Diet Aid" and "L-Carnitine" (together "the Supplements").

#### **IV. The Applicant's Submissions**

- 21 It is for the body enforcing the relevant rules to prove that a breach of those rules has occurred. In 'Article 2.1 of the ADR' cases, the presence itself of a Prohibited Substance in a sample is taken as proof that a violation has occurred, as per Article 2.1.3.
- 22 The Applicant stated that it was not necessary for the disciplinary body enforcing the rules to prove intent, fault, negligence or knowing use on the athlete's part for a charge under this ADR to be upheld. On that basis, the Applicant submitted that the only issue in this matter was the applicable sanction for the Respondent.
- 23 The Applicant advanced evidence in the form of witness statements from Louis Muncey and Anna-Maria Lewry, both of UKAD.
- 24 Mr Muncey's statement exhibited a Doping Control Form dated 13 June 2015 wherein the Respondent was previously subject to doping control testing. For the avoidance of doubt, no AAF was reported as a consequence of that test.
- 25 Ms Lewry's statement exhibited a report for the purposes of which Ms Lewry conducted research on the Supplements. In summary:
- (a) "GW Stamina SARM" a product manufactured by Alphaform Labs, contains GW1516. Each capsule of "GW Stamina SARM" contains 10 milligrams of GW1516;
  - (b) "Ostarine" a product manufactured by Alphaform Labs, contains Ostarine. Each capsule of "Ostarine" contains 10 milligrams of Ostarine;
  - (c) No source of 1,3DMB was identified in any of the Supplements researched.
- 26 The Applicant submitted in relation to the applicable sanction, the following provisions of the ADR were relevant:
- Article 10.2 – Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of a Prohibited Substance and/or a Prohibited Method;

- Article 10.4 – Elimination of the Period of Ineligibility when there is No Fault or Negligence;
- Article 10.5 – Reduction of the period of Ineligibility based on No Significant Fault or Negligence.

Taking these provisions in turn:

### **Article 10.2 of the ADR**

27 The Respondent has admitted the Presence of 1,3DMB, Ostarine and GW1516 in his Sample.

#### **1,3DMB**

28 The Applicant submitted that on the basis that 1,3DMB is a Specified Substance prohibited In-Competition only and under Article 10.2.1(b) of the ADR, the mandatory sanction for this violation is a period of Ineligibility of two years, unless the Applicant can establish that the Respondent acted intentionally in committing the ADRV.

29 The Applicants position was that there was no evidence as to how this Substance came to be present in the Respondent's Sample and in the circumstances, the Applicant cannot adduce a positive case that the Respondent acted intentionally in ingesting 1,3DMB. However, the Applicant did not admit or accept that the Respondent did not act intentionally in this regard.

30 The Applicant submitted that the period of Ineligibility is therefore two years and argues that this period may not be eliminated or reduced pursuant to Articles 10.4 or 10.5 as set out below.

#### **Ostarine and GW1516**

31 Ostarine and GW1516 are both Non-Specified Substances prohibited at all times.

32 In respect of the presence of Ostarine and GW1516, Article 10.2.1 (a) of the ADR provides that the mandatory sanction for this violation is a period of Ineligibility of

four years, unless the Respondent can establish, on the balance of probabilities that he did not act intentionally in committing the ADRV.

33 The Applicant submitted that the Respondent must explain the conduct that led to the ADRV, averring that this included providing an explanation as to the circumstances surrounding ingestion, including the means of ingestion and when the ingestion took place. The Applicant did not accept the explanation of inadvertent 'spiking' by his wife that was given.

34 The Applicant submitted that the Respondent did not discharge the burden of proof placed upon him by the ADR in respect of the means and timing of ingestion to show that he did not act intentionally pursuant to Article 10.2.3 of the ADR.

35 During the hearing, the Applicant examined the evidence of both the Respondent and his wife at length, and made the following submissions and observations:

- (a) that the Tribunal should be wary of accepting the evidence of someone (Mrs Costello) who was admitting that she was a liar and had deceived her husband;
- (b) there was no supporting evidence at all that Mrs Costello had apparently paid for everything in cash and had no receipts. Mr Costello had thrown the Supplements away;
- (c) there was an inherent unlikelihood concerning her story. Mrs Costello knew that her husband had been tested before, knew he was liable to be tested again, yet gave him supplements knowing there could be risk of an ADRV.

36 Further, the Applicant submitted that were the Tribunal to accept the Respondent's account of his wife having added the Supplements into the drinks without the Respondent's consent, the Applicant avers that the Respondent has manifestly disregarded what he knew was a significant risk that his conduct, in consuming the drink prepared by his wife, might result in an ADRV:

- (a) Two years previously, on 13 June 2015, the Respondent was subject to doping control testing at a CTT event. He was therefore on notice that he was subject to the ADR and ought to have been aware of his responsibilities

under the ADR, and particularly the requirement to take full responsibility for what he ingests; and

- (b) The Respondent stated that he and his wife had disagreed several times in the past about the merits of using supplements and ought to have been alive to the possibility, if he did not know in fact, that she was adding supplements to her own smoothies. The Applicant submitted that, in those circumstances, the Respondent drinking the remnant of a smoothie which his wife had prepared for her own consumption amounted to a manifest disregard of the significant risk that such conduct might result in an ADRV.

### **Applicability of Articles 10.4 or 10.5 of the ADR**

- 37 The Applicant submitted that there is no evidence before the Tribunal which explained how 1,3DMB came to be present in the Respondent's Sample and accordingly Articles 10.4 and 10.5 of the ADR cannot be applied and the Respondent should not be entitled to call upon those provisions to reduce or eliminate the applicable sanction of two years in respect of the Presence of 1,3DMB.
- 38 The Applicant stated that whilst the applicability of Articles 10.4 and 10.5 of the ADR to the ADRV in respect of the Non-Specified Substances is moot in light of the position set out above, even if the Respondent were able to establish that the ADRV in respect of Ostarine and GW1516 was caused by the ingestion of the Supplements in the manner he claims and that such ingestion was not intentional, the Applicant submitted that neither Articles 10.4 or 10.5 may be applied.
- 39 The Applicant submitted that Article 10.4 of the ADR should not be applied in any event. It directed the Tribunal to the commentary to the WADA Code for Article 10.4, which expressly states: "*No Fault or Negligence would not apply in the following circumstances: ...sabotage of the Athlete's food or drink by a spouse... (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink)*".
- 40 The Applicant submitted that the Tribunal should have regard to the following:



- (a) The Respondent had been subject to doping control testing in June 2015 and therefore ought to have been alive to the responsibilities incumbent upon him as an athlete participating in CTT events;
- (b) The paramount duty and responsibility of the Respondent to ensure that no Prohibited Substance enters his body;
- (c) The extent of the Respondent's failure to discharge that duty by ensuring his wife was aware of his responsibility under the ADR and the risks posed to him of ingesting any Prohibited Substance;
- (d) The extent to which the Respondent failed to exercise any caution at all, let alone the utmost caution, when he entrusted to his wife, whom he knew to have a different position to him on the use of supplements, with the preparation of his breakfast smoothie;
- (e) The extent to which the Respondent failed to check and enquire into the actions and omissions of his wife; and
- (f) The extent to which the Respondent did not take any precaution to ensure that the smoothie he was drinking was free from any supplements or Prohibited Substances.

41 In such circumstances, the Applicant submitted that the Respondent cannot be said to bear No Significant Fault or Negligence for the ADRV and the period of Ineligibility should be 4 years.

42 The Applicant also disputed the claims of the Respondent to start any such ban from the testing date. Article 10.6.3 of the ADR was not relevant and Article 10.11.2 should not be applied either, as the Respondent was still taking the smoothies up to the date of his provisional suspension, further to the evidence of his wife.

## **V. The Respondent's Submissions**

- 43 The Respondent acknowledged that there is no dispute as to the accuracy of the AAF confirming an ADRV and that the issue in the case centred around intentionality and the degree of fault and/or negligence.
- 44 The Respondent submitted that of the three prohibited substances found in the AAF, 2 of those substances (GW1516 and Ostarine) are Non-Specified and prohibited at all times. 1,3DMB is a Specified Substance which is banned In-Competition only. Therefore, in respect of the Non-Specified Substances, it was for the Respondent to establish, on the balance of probabilities, that he did not take them intentionally. In the case of the Specified Substance 1,3DMB, the Applicant must establish that the Respondent acted with intention if it intended to pursue a higher sanction than the standard 2 year period of Ineligibility.
- 45 The Respondent's position was that the Prohibited Substances were ingested following his wife, Mrs Costello, having prepared a breakfast smoothie as part of her weekday morning routine before she went to work. In preparing such smoothies, his wife would add the Supplements to it without his knowledge.
- 46 The Respondent stated that the evidence provided by the Applicant in the form of the witness statement prepared by Ms Lewry demonstrates that one of the supplements (GW Stamina) contains GW1516 and another of the supplements (Ostasize) is very likely to contain Ostarine. Accordingly, the Respondent submitted that on the balance of probabilities, the Respondent can establish how the non-Specified Substances entered his system. In addition, the Respondent's position was that he had no idea that the breakfast smoothies he was taking contained any of the Supplements and he therefore cannot have been deliberately engaging in conduct which he knew constituted an ADRV.
- 47 With regard to the Specified Substance, 1,3DMB, the Respondent's position was that whilst the witness statement of Ms Lewry was not categorical in establishing the provenance of 1,3DMB, it did in fact create "an overwhelming inference" that this Prohibited Substance came from the Supplements which were added to the Respondent's smoothie without his knowledge.

48 The Respondent referenced the *Murphy* case<sup>1</sup>, where it was held that despite the athlete (a rugby union player) undertook some basic checks on the supplements he was taking, none of his checks resulted in the finding of any Prohibited Substances. However, Mr Murphy committed an ADRV following an AAF for 1,3DMB and it was held that the supplement Mr Murphy was taking was likely to have been contaminated by 1,3DMB, despite it not being immediately obvious from the supplement packaging or list of ingredients that it contained 1,3DMB. The Respondent submitted that it was “overwhelmingly likely” that such contamination took place in this case given that 1,3DMB was a known contaminant.

### **No Fault of Negligence or No Significant Fault or Negligence**

49 The Respondent submitted in his Response that he bore No Fault or Negligence. At the hearing, the Respondent noted the commentary to the WADA Code and, whilst not totally abandoning the No Fault or Negligence position, concentrated his focus on the No Significant fault or Negligence position.

50 The Respondent trusted his wife to make a breakfast drink for him which would contain only that which it appeared to, and not any supplements. This was not the case of someone buying a commercially produced drink from a shop and not checking the ingredients, or taking medication given by a friend or relative without checking whether the contents included prohibited substances. This was a husband drinking a smoothie prepared by his wife and there was no reason for the Respondent to reasonably suspect that those smoothies would contain prohibited substances.

51 In the event that the Tribunal did not accept the Respondent’s submissions, then the Respondent sought that Article 10.6.3 of the ADR regarding a prompt admission be considered in this matter.

## **VI. Evidence at the hearing**

52 The Tribunal heard from the Respondent and his wife at the hearing.

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<sup>1</sup> UKAD v Murphy August 2015

- 53 Mr Costello spoke of his shock and feeling of betrayal when his wife told him that she had been adding the Supplements to his breakfast smoothies. He had “moaned” about his weight to her for a long period of time, but when they had discussed the use of supplements in the past, he had been clear with her that he did not think they worked and were a waste of money. He did take gels when on cycle rides, but not supplements.
- 54 For a number of weeks his wife had been sharing her breakfast smoothie with him. She works in Liverpool and always got up before him, makes herself a smoothie and recently started to leave him some too. It was to help him lose weight. As far as he was aware, it contained vegetables, fruit and ice. Unbeknown to him, she had been adding the Supplements too. He had never seen the Supplements. His wife had kept them in her sports bag and took them with her to work every day. At the weekends, the bag was in her bedroom cupboard.
- 55 She did not inform him of this initially (indeed she was in the car with him when he received a call informing him of the AAF and she kept quiet), rather she contacted Mr Clemo and reported her actions to him, then he told her to confess this to her husband. She was in away with work and called him saying that she was about to send him the email she had sent to Mr Clemo, confirming that she had been adding the Supplements to the smoothies. On her return home that evening, they rowed and he threw the Supplements out. He had not attempted to buy replacements in order to carry out specific research.
- 56 Mrs Costello confirmed that she had twice bought the Supplements, which were the four products, each in a container with approximately 60 tablets in each. She used one or two tablets from each container in each smoothie. She opened the capsules and poured the contents into the smoothie each morning, then stirred the powder in, rather than putting the contents in at the beginning and “blasting” it altogether in a NutriBullet with the vegetables, fruit and ice. She had been preparing these without the Supplements for years, but had recently (perhaps for one or two months) been adding the Supplements to her own smoothies (not her husband’s – so adding to hers after she had separated their portions) as she wanted to lose weight, increase her energy levels and stamina and to help with

muscle repair. She acknowledged that the Supplements hadn't resulted in weight loss, rather they enabled her to stay slim.

57 Each tub or container lasted a month and she had bought them from a shop with branches in Liverpool and Preston. When the Supplements were thrown away they were roughly half full.

58 She had decided to add the Supplements to Mr Costello's smoothie, without informing him, roughly a week or so before he was tested. This did involve doubling the amount of capsules that she used each day. She continued to do so until she realised that this was the likely source of the AAF, a couple of weeks after they were aware of the test results. She kept the Supplements hidden in her sports bag and it came to work with her every day, as she had a routine of going to the gym before work (sometimes after too) and running at lunchtime. She knew that he didn't agree with supplements and thought they were a waste of money. She thought she was helping him, as he was complaining about his weight and how it was holding him back on hill climbs. She thought that if his weight reduced, she could say "I told you so" regarding the use of supplements. However, she acknowledged that in the short time she was adding the Supplements, his weight hadn't changed.

59 She recalled being in the car when UKAD informed him of the test results, only later, after seeing the UKAD letter that set out the Prohibited Substances did she contact Mr Clemo by email. She then was told by him to admit this all to her husband, which she did by phone. Later, at home, she showed him her email to Mr Clemo, they had an argument and the Supplements were thrown away by Mr Costello.

60 While she didn't regularly train or exercise with her husband, she did help him organise cycling events from time to time. She was aware that he had been tested once before.

## VII. Issues for the Tribunal

61 The Tribunal notes that it must address the following issues:

- a) Has the Respondent satisfied his burden of proof to establish that the ADRV was not intentional?
- b) Does the Respondent's degree of Fault lead to a reduction of the otherwise applicable period of Ineligibility? and
- c) In the circumstances, what should be the commencement date for any period of Ineligibility?

### Intent

62 At the hearing, UKAD submitted that: as the AAF was undisputed; as two of the Prohibited Substances were non-Specified Substances; as the research on the Supplements would support the finding that those non-Specified Substances would be in the Supplements; the Tribunal needs to determine whether, on the balance of probabilities, it finds the spiking by Mrs Costello as credible and reliable.

63 The Tribunal notes Article 10.2.1 (a) of the ADR stipulates that starting point for the period of Ineligibility for the Presence of non-Specified Substances is four years, *"unless the Athlete...can establish that the ADRV was not intentional."*

64 The Respondent's position is that he neither knew that his wife was adding the Supplements containing the Prohibited Substances to his smoothies, nor was there a significant risk that drinking a smoothie prepared from fruit, vegetables and ice could result in an ADRV, for him to *"manifestly disregard that risk."*

65 The Tribunal notes that the evidence to support his claim that his wife was spiking his smoothies was solely his word and that of his wife. The tubs that contained the Supplements had been discarded, there were no receipts or evidence that these supplements had ever been purchased, no replacements had been purchased and analysed. The Tribunal also notes that the Supplements do not appear to contain the Specified Substance either, according to the Respondent, the batch his wife had must have been contaminated by that Specified Substance, as had been found

in the *Murphy* case (even though in that case the supplement was different from the four Supplements).

- 66 The Tribunal must therefore basically determine whether it believes the position of Mrs Costello. There are other possible explanations of how the AAF occurred. Mr Costello could have been taking the Supplements, perhaps other supplements or drugs, perhaps both Mr and Mrs Costello were taking the Supplements, etc. It is not for the Tribunal to speculate, it is for the Respondent to satisfy the Tribunal that his explanation is to be accepted and that his wife's testimony is to be believed.
- 67 The Tribunal noted there were some potential discrepancies with her testimony – would the containers still be half full when the two of them had been taking the Supplements for perhaps a couple of weeks before the test date and a couple of weeks after? When did she show her email addressed to Mr Clemo to her husband? Would she have no idea that supplements could lead to doping offences?
- 68 However, the Tribunal struggled with a couple of major issues with her testimony. Firstly, why would she go behind her husband's back and decide to add supplements to his smoothie at all? Then secondly, if it was to "show him", then why those Supplements? She stated that the cocktail was for stamina, energy and muscle repair. She hadn't lost any weight on them, yet he was moaning about his weight. Thirdly, their collective position on supplements was not clear. Was Mr Costello's anti-supplements stance because they could result in an ADRV or was it that they were a waste of money? It was clear that Mr Costello had been tested before. The Tribunal imagines that this would place both on a higher level of alert regarding anti-doping in general, yet she apparently thought it would be a good idea to add supplements to his drink, having carried out absolutely no research on the same before coming to this decision. She wasn't trying to hide this from him, yet took four containers of tablets with her every day to work and the gym, rather than leaving them next to her NutriBullet or just in the kitchen.
- 69 Ultimately, even after hearing both Mr and Mrs Costello, the Tribunal were not left feeling that this story was more likely true than not. As such, Mr Costello has failed

to satisfy his burden of proof to convince the Tribunal that the ingestion of these Prohibited Substances was not intentional.

70 The Tribunal notes the authorities relied upon by UKAD. The Respondent *“must positively prove it”*<sup>2</sup> and he *“must go on to show that the innocent explanation is more likely than not to be the correct explanation, and to do that he must show what the factual circumstances were in which the substance entered his system, not merely the route by which it entered his system.”*<sup>3</sup> The Tribunal does not accept the explanation that it was through Mrs Costello administering the Supplements without his knowledge. The Respondent has relied solely on this explanation and has not satisfied the Tribunal that is true, there are other potential explanations (some of which are set out above), but ultimately the Tribunal is left not knowing for sure how the Prohibited Substances entered his body.

71 As such, the starting point for the Respondent’s period of Ineligibility is four years.

### **Fault**

72 With the finding that the Respondent could not establish how the non-Specified Substances entered his body, there is no need for the Tribunal to consider his Fault or Negligence. As such, Article 10.4 and 10.5 of the ADR are not engaged.

### **Commencement date**

73 The Tribunal notes that the Respondent requested the Tribunal to apply Article 10.6.3 (as opposed to Article 10.11.2) of the ADR. However, the Tribunal agrees with UKAD, that this provision can only be engaged at the discretion of WADA and UKAD, which had not been exercised in the case at hand.

## **VIII. The Decision**

74 For the reasons set out above, the Tribunal makes the following decision:

74.1 An ADRV contrary to Article 10.2 of the ADR has been established;

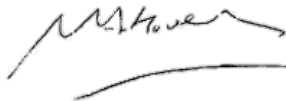
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<sup>2</sup> CAS 2012/A/2759 Rybka v UEFA

<sup>3</sup> ITF v Burdekin, April 2005



- 74.2 As the Respondent failed to satisfy his burden to establish that the ADRV was unintentional pursuant to Article 10.12.1 of the ADR, the standard sanction of 4 years Ineligibility shall apply to;
- 74.3 In accordance with Article 10.11.3(a), the Respondent is entitled to credit for the period of Provisional Suspension, and so the period of Ineligibility shall be deemed to have commenced on 16 June 2017 and shall therefore end at midnight on 15 June 2021;
- 74.4 As such, the Respondent shall not be permitted to participate in any capacity in a competition or other activity (other than Authorised Anti-Doping Education or Rehabilitation programmes) organised, convened or authorised by the CTT or any body that is a member of, affiliated to, or licenced by the CTT;
- 74.5 Pursuant to Articles 9.1 and 10.8 of the ADR, the Respondent's result obtained in the Event and any other results obtained by him in Competitions taking place between the date of Sample Collection and commencement of his Provisional Suspension shall be Disqualified with all resulting Consequences, including forfeiture of any medal, title, points and prizes; and
- 74.6 In accordance with Article 13.4 of the ADR, the relevant parties have a right of appeal to the NADP Appeal Tribunal. In accordance with Article 13.7.1 of the ADR and Article 12.5 of the NADP Procedural Rules, any party who wishes to appeal must lodge a Notice of Appeal with the NADP Secretariat within 21 days of receipt of this decision.



**Mark Hovell, Chairman**

For and on behalf of the Tribunal

16 October 2017



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