

In the matter between:

SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT (SAIDS)

and

WILLEM VAN DER WALT

In re: ALLEGED VIOLATION OF ANTI-DOPING RULE IN TERMS OF ARTICLE 2.1 OF THE 2015 ANTI-DOPING RULES OF THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORT (SAIDS)

ANTI-DOPING TRIBUNAL FINDINGS AND SANCTION

A INTRODUCTION

1. These proceedings are governed by the South African Institute for Drug Free Sport Anti-Doping Rules 2015. Federations and athletes are subject to the jurisdiction of SAIDS in terms of Article 1 of the Anti-Doping Rules 2015 and must comply with the Anti-Doping Rules in terms of Section 10(1)(e) of the South African Institute for Drug-Free Sport Act No 14 of 1997.
2. An Independent Doping Hearing Panel was convened by SAIDS in terms of Article 8.1 of the Anti-Doping Rules 2015 in order to determine whether, in this case, a doping violation in terms of the SAIDS Rules and as embodied in the charge set out below, was committed by Van der Walt.
3. Van der Walt was advised that a doping hearing would be convened for **Monday, 14 December 2015** to hear the charges against him. He was also advised that he was entitled to be legally represented.
4. The Doping Hearing Panel comprised of:
Prof Rian Cloete, Chairperson
Mr Leon Fleiser, Sports Administrator Representative
Dr Rob Collins, Medical Doctor

B THE HEARING

5. The hearing was duly convened on **Monday, 14 December 2015** at 17h00 at the Holiday Inn Express, the Zone, Oxford Road, Rosebank, Johannesburg, and the hearing was as far as possible conducted in an informal manner.
6. SAIDS was represented at the hearing by Palesa Motene (Prosecutor), who was charged with the duty of prosecuting Van der Walt.
7. There being no witnesses present at the hearing for either SAIDS or Van der Walt, the hearing proceeded in the presence of the members of the Tribunal and the Prosecutor before the tabled evidence contained in the bundle attached to the affidavit of the Prosecutor, consisting of:
 - 7.1 The notification of the adverse analytical finding (sample number 3928370) dated 15 October 2015;
 - 7.2 The Doping Control Form dated 27 August 2015;
 - 7.3 The Chain of Custody Form;
 - 7.4 The exchange of correspondence between Van der Walt and SAIDS.
8. The Prosecutor confirmed that proper notice of the doping hearing was served on Van der Walt and that he indicated that he does not intend appearing before the Doping Hearing Panel.

C THE CHARGE

9. On 24 November 2015, Mr Willem Van der Walt ("Van der Walt"), a power lifter who competed at the Gauteng Raw Powerlifting Championships, was served a written charge as follows:

"On the 29 August 2015, you provided a urine sample (3928370) during an in-competition test. Upon analysis, the Deutsche Sporthochschule Koln Institut für Biochemie Laboratory in Cologne, Germany reported the presence of prohibited substances in your urine sample. The substance identified in your sample were 17β-hydroxymethyl-17α-methyl-18-norandrost-1,4,13-triene-3-one, a metabolite of Metandienone and 3'-hydroxystanozolol, a metabolite of Stanozolol. These substances

are categorised under **Class S1 – Anabolic Agents** on the World Anti-Doping Code 2015 Prohibited List International Standard.”

10. Van der Walt was notified of the adverse analytical finding on 15 October 2015 and further informed that he was entitled to have his “B” Sample analysed.
11. In a written response dated 19 October 2015 Van der Walt admitted the anti-doping rule violation and accepted liability for the positive test conducted on the sample received. The adverse analytical finding of the “A” sample was not in dispute and an analysis of the “B” sample was therefore not requested.
12. In order to establish the anti-doping rule violation, it is necessary to set out herein Article 2.1 of the Rules which read as follows:

“2.1 Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete’s Sample*.

2.1.1 It is each *Athlete’s* personal duty to ensure that no *Prohibited Substance* enters his or her body. *Athletes* are responsible for any *Prohibited Substance* or its *Metabolites* or *Markers* found to be present in their *Samples*. Accordingly, it is not necessary that intent, fault, negligence or knowing *Use* on the *Athlete’s* part be demonstrated in order to establish an anti-doping rule violation under Article 2.1”

13. In order to secure a guilty verdict from the Doping Hearing Panel, the Prosecution needs to discharge the burden of proof as contemplated in Article 3.1 of the Rules. It states the following:

“3.1 Burdens and Standards of Proof

SAIDS shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether SAIDS has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation that is made. The standard of proof in all cases is *greater than a mere balance of probability* but *less than proof beyond a reasonable doubt*.

14. A Doping Control Form (64542) was handed into evidence with test mission code 612/15 by SAIDS for the in-competition testing of Van der Walt. This form was signed by the athlete on the 29th August 2015 acknowledging that he had read the notice,

been notified of his selection and gave his consent to provide samples for anti-doping research that was presented into evidence.

15. The Athlete declared on the Doping Control Form that on the 29th August 2015 he consumed SSN Crea-Pump, SSN BCAA and Creatine.
16. The WADA accredited Deutsche Sporthochschule Koln Institut fur Biochemie Laboratory in Cologne, Germany reported on 29 September 2015 the presence of prohibited substances, namely *Metandienone* and *Stanozolol*, in the urine sample (3928370) of Van der Walt.
17. *Metandienone* and *Stanozolol* are prohibited substances under the 2015 Prohibited List World Anti-Doping Code and are categorised under **Class S1 – Anabolic Agents** on the World Anti-Doping Code 2015 Prohibited List International Standard.
18. In terms of Article 3.2.2 of the Anti-Doping Rules 2015 it is presumed that WADA accredited laboratories conducted sample analysis and custodial procedures in accordance with the international standard for laboratories.
19. Van der Walt never suggested that there has been any departure from the prescribed international standard nor challenged or disputed the adverse analytical finding.

D THE VERDICT

20. The Doping Hearing Panel is satisfied that Van der Walt is indeed guilty of violating Article 2.1 of the 2009 Anti-Doping Rule of the South African Institute for Drug-Free Sport (SAIDS) as particularised in the charge sheet served on Van der Walt on **24 November 2015**.

E THE SANCTION

21. The remaining question is the nature of the sanction which should be imposed in respect of the violation of Article 2.1.1 of the Rules.
22. Article 10.2 of the Rules is headed "***Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance and Prohibited Method***"

Article 10.2.1 of the Rules provides that the period of *Ineligibility* shall be four (4) years where:

10.2.1.1 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.

10.2.1.2 The anti-doping rule violation involves a Specified Substance and SAIDS 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 (2) years.

23. The substances found to be present are prohibited substances under the 2015 Prohibited List World Anti-Doping Code and are categorised under **Class S1 – Anabolic Agents** on the World Anti-Doping Code 2015 Prohibited List International Standard. Anabolic agents are not specified substances for purposes of the Anti-Doping Rules in terms of Article 4.2.2.

24. Therefore, the period of *Ineligibility* shall be four (4) years, unless Van der Walt can establish that the anti-doping rule violation was not intentional.

25. On Van der Walt's own version, he knowingly took anabolic agents that were prohibited substances under the 2015 Prohibited List World Anti-Doping Code.

26. Van der Walt stated in his written response dated 19 October 2015 that he "*took the anabolic agent a few weeks before the Competition*" and that he "*was under the impression that the anabolic agent would not be in my system during the course of the Competition*".

27. Van der Walt clearly had the intention and engaged in conduct which he 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.

28. The Doping Hearing Panel accepted a recommendation made by the Prosecutor (who must be complimented on her thorough submissions) that Van der Walt be declared ineligible for a period of four (4) years with effect from **15 October 2015**.
29. Van der Walt was provisionally suspended from 15 October 2015 and Article 10.10.3.1 provides that the Athlete shall receive a credit for such period of provisional suspension against any period of ineligibility.
30. Van der Walt further forfeits any results, medals and prizes obtained in the Gauteng Raw Powerlifting Championship held on 29 August 2015 in terms of Article 10.1 of the Rules.

Accordingly the Doping Hearing Panel's sanction is as follows:

"Having found the athlete, Mr Willem Van der Walt, guilty of an Anti-Doping Rule violation in terms of Article 2.1 of the 2015 Anti-Doping Rules of the South African Institute for Drug-Free Sport (SAIDS) as particularised in the charge sheet of 24 November 2015, Van der Walt is hereby declared ineligible to participate in any competition or other activity as contemplated in Article 10.11.1 for a period of four (4) years with effect from 15 October 2015."

DATED at JOHANNESBURG this 17th day of DECEMBER 2015.

PROF RIAN CLOETE

MR LEON FLEISER

DR ROB COLLINS

