



**Arbitration CAS 2009/A/1985 Franchon Crews v. International Boxing Association (AIBA),  
award of 10 June 2010**

Panel: Judge Robert Reid QC (United Kingdom); Mr Christopher Campbell (USA); Prof. Ulrich Haas (Germany)

*Boxing*

*Doping (phentermine)*

*Invalidity of the constitution of an IF Anti-Doping Hearing Panel*

*De novo hearing*

*Negligence of the athlete excluding a finding of No Significant Fault or Negligence*

*Consequences of the delay in the process on the applicable sanction*

1. A federation doping hearing panel is to be considered an organ of the association and – as such – does not need to meet the same level of independence as an arbitral tribunal. A federation’s doping hearing panel which deals with an athlete case has to be properly appointed under the federation’s rules by which the athlete has agreed to be bound. It is only in cases where there is some allegation of misfeasance by the federation or some representative of it that questions might be raised as to the possibility of some apparent bias. The protection against this possibility lays in the provision that the appointed members shall have had no prior involvement with the case and shall not have the same nationality as the person alleged to have violated the anti-doping rules. This is a requirement which must be strictly observed. If the requirement is not observed, the proceedings of, and decision by, the panel are fatally flawed.
2. An appeal before CAS is treated as being an appeal by way of complete re-hearing rather than review. Therefore a CAS panel can reconsider the case *de novo* and thus cure the defect in the composition of the original federation’s anti-doping hearing panel. This CAS jurisprudence is in line with European Court of Human Rights decisions.
3. All athletes competing at international level are, or at the very least should be, well aware of the need to take extreme care as to what they allow to enter their bodies. For an athlete to accept a “*sports drink*” with a label in a language he/she cannot understand from a person he/she did not know to “*help replenish her electrolytes*” for competition and then to consume it without making any inquiry about its contents constitutes as clear and obvious a case of negligence as it is possible to envisage. Therefore it cannot be said that he/she “*bore No Significant Fault or Negligence*” justifying a reduction of the otherwise applicable sanction.
4. Whilst it is important that an international governing body of a major sport should deal properly and promptly with anti-doping matters, it does not follow that the appropriate way to do this is by allowing an athlete to escape the consequences of his/her actions.

**This would merely advantage the athlete and act to the disadvantage of those other athletes who had not committed doping offences. It is important that an athlete should not have been disadvantaged by the delay, but once it is established that there is no disadvantage, there is no reason why a sanction should not be imposed. Since the appropriate penalty is one of two years ineligibility and the period of ineligibility is to run from the date of the sample collection, there is no prejudice to the athlete in the delay.**

The Appellant is Ms. Franchon Crews. She is a boxer.

The Respondent is the International Boxing Association (AIBA), the body charged with the worldwide administration of the amateur sport of boxing. It is an association pursuant to Articles 60 et seq. of the Swiss Civil Code, having its seat in Lausanne, Switzerland.

In October 2008 Ms. Crews attended the Pan-American Games at Port of Spain, Trinidad and Tobago as a light-middle-weight (154 lbs).

On 7 October 2008 she gave a urine sample for anti-doping testing purposes.

The A sample tested positive on 28 October 2008, showing the presence of the anorexic and stimulant Phentemine, a Prohibited Substance under the Anti-Doping Rules of AIBA.

On 28 October 2008 the testing laboratory in Montreal, Canada, orally reported the result to AIBA. AIBA received the report on 29 October. The report did not identify Ms. Crews.

On 30 October 2008 AIBA inquired of the Trinidad and Tobago Amateur Boxing Association as to the identity of the boxer involved.

On 4 November 2008 AIBA was informed of the identity of the boxer involved (i.e., Ms Crews).

On 10 November 2008 Ms Crews was notified by telephone of the test result.

On 9 February 2009 USA Boxing purported to impose a two-year ban on Ms. Crews with effect from 7 October 2008, the date of the sample collection.

On 13 February 2009 USA Boxing recognized it could not impose a sanction until Ms. Crews had the opportunity of a hearing. The same day a charging letter was sent to Ms. Crews and notifying her of her right to have the B sample analyzed.

Ms. Crews requested that the B sample be analyzed and on 31 March 2009 AIBA was informed that the analysis of the B sample confirmed the analysis of the A sample. Ms. Crews was informed on that date that she had a right of appeal against the two-year ineligibility period imposed upon her and that

the appeal must be submitted no later than 15 April 2009. The appeal was to be heard by the AIBA Anti-Doping Hearing Panel.

On 20 April 2009 Valparaiso Sports Law Clinic notified AIBA that it was representing Ms. Crews. At the request of Ms. Crews' representatives the deadline for filing the appeal was extended to 31 May 2009.

On 29 April 2009 in response to a query from Valparaiso Sports Law Clinic as to the venue of any hearing AIBA replied "*Mr. Ho Kim, the AIBA Executive Director, suggested to hold the Hearing on June 8th, 2009 in Lausanne at AIBA Headquarters*".

On 7 May 2009 Valparaiso Sports Law Clinic indicated that neither Ms. Crews nor Valparaiso Sports Law Clinic had the funds to attend a hearing in Lausanne and requested that the hearing be conducted by telephone and that the hearing date be a Tuesday rather than a Monday. No request was made for the hearing to take place elsewhere than in Lausanne.

On 28 May 2009 Ms. Anne Bloch, the AIBA anti-doping administrator, informed the Valparaiso Sports Law Clinic that the AIBA Anti-Doping Hearing Panel would comprise Ms. Alicia Garcia-Franco, Dr. Hamid Khadri and Dr. Sante Bucari. The same day Ms. Bloch resigned her position.

On 29 May 2009 Valparaiso Sports Law Clinic submitted the appeal brief on behalf of Ms. Crews. The brief submitted that Ms. Crews bore no significant fault or negligence, and that the prohibited substance detected was ingested accidentally. It asked that her suspension be reduced to 18 months under AIBA Rule 10.5.2.

On 2 June 2009 Mr. Benoit Giran was appointed to take Ms. Bloch's post.

Mr. Giran sought to get Ms. Garcia-Franco to take action but she did nothing, apart from sending one communication which indicated the hearing might take place in September.

On 22 June 2009 and 3 July 2009 Valparaiso Sports Law Clinic wrote asking as to the status of the panel's deliberations and referring to AIBA Anti-Doping Rule 8.1.4 and 8.3.

On 3 September 2009 Valparaiso Sports Law Clinic moved to dismiss the proceedings due to AIBA's failure to provide a hearing and render a decision in a timely fashion in violation of AIBA Anti-Doping Rule 8.1.4 and 8.3 and WADA Article 8.1.

The motion to dismiss the proceedings was brought to the attention of the AIBA Legal Manager on 16 September 2009 by Dr. Vagner Mortensen, Chairman of the AIBA Anti-Doping Commission. He brought the relevant information to the attention of the AIBA Legal Manager.

On 17 September 2009 AIBA responded that it had determined that it would direct the AIBA Anti-Doping Hearing Panel to proceed with the hearing on or before 3 October 2009 and that if the AIBA Anti-Doping Hearing Panel failed to hold the hearing on or before 3 October 2009 it would consent to the immediate dismissal of the proceedings and all sanctions on Ms. Crews would be lifted.

On 23 and 24 September 2009 Ms. Crews' representatives were informed of the identity of the AIBA Anti-Doping Hearing Panel, save that it was indicated that the third member of the panel might be either Dr. Sante Bucare or Mr. Abdelhamid Khadri.

On 29 September 2009 AIBA gave formal notification that the hearing would take place on Monday 5 October 2009 and that the AIBA Anti-Doping Hearing Panel would comprise Mr. Michel Pautot, Dr. Mortensen and Dr. Sante Bucare.

On 5 October 2009 (it seems the hearing had been rescheduled for that date for the convenience of Valparaiso Sports Law Clinic) the hearing took place by telephone conference call. In the hearing counsel for Ms. Crews argued three points: (1) that Ms. Crews bore no significant fault or negligence and the prohibited substance that as detected was ingested accidentally, (2) the "*procedural delay*" point and (3) an attack on the impartiality of the AIBA Anti-Doping Hearing Panel.

On 8 October 2009 the AIBA Anti-Doping Hearing Panel gave its decision. It held that Ms. Crews had not established on the balance of probabilities how the prohibited substance came to be in her body; that the procedural delays did not warrant dismissal of the charges and that she had suffered no harm as a result of the delays; and that the AIBA Anti-Doping Hearing Panel appointed was, subjectively and objectively, sufficiently independent and impartial to deal with the case. It determined that a period of two years ineligibility should be enforced against Ms Crews from 7 October 2008 to 6 October 2010.

On 28 October 2009 Valparaiso Sports Law Clinic filed an appeal with CAS against the decision of the AIBA Anti-Doping Hearing Panel.

Ms. Crews based her appeal on two grounds: first, that AIBA has violated its own anti-doping rules, provisions of the World Anti-Doping Code, and Ms. Crews' due process and human rights as an athlete, when AIBA failed to resolve Ms. Crews case in a reasonable period of time; and second, that the AIBA hearing Panel and hearing process violated AIBA's anti-doping rules, World Anti-Doping Code, and Swiss law, because it was not objectively impartial and independent.

## LAW

### CAS Jurisdiction

1. By Rule 13.2.1 of the AIBA Anti-Doping Rules (in both the versions current at 7 October 2008 and in October 2009) states, "*In cases arising from competition in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court*". The time to file an appeal to CAS is twenty-one (21) days from the date of receipt of the decision by the appealing party.

2. AIBA accepts that CAS has jurisdiction in this case and that the appeal was timely filed.
3. The parties accepted that, as provided by Article R58 of the Code, this CAS Panel (“Panel”) should decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled. Consequently under the AIBA Statutes this Panel is to apply the provisions of the AIBA Rules and – subsidiarily - Swiss law.

### **Procedural matters**

4. This Panel was invited by the parties to consider whether an oral hearing of the appeal was necessary. The Appellant stated that neither she nor her counsel could afford to attend a hearing in Lausanne and requested that any oral hearing (if the Panel considered one necessary) be by telephone. The Respondent submitted no oral hearing was necessary.
5. Having considered the briefs submitted the Panel invited the parties to submit further supplementary briefs and indicated it would make its decision as to whether or not an oral hearing was necessary after considering those briefs. Having received and considered those briefs, the Panel ruled that the case could be properly considered and disposed of without putting the parties to the expense of an oral hearing.
6. Under Article R57 of the Code, the Panel has the full power to review the facts and the law. The Panel, therefore, in the exercise of its jurisdiction, does not examine only the formal aspects of the appealed decision, but reconsiders the case *ab initio*, evaluating all facts, including new facts, which were not previously mentioned by the parties, and all legal issues involved in the dispute.
7. The members of the Panel have consulted together by telephone conference and by e-mail and have concluded it is unnecessary for them to have any face to face meeting in order to resolve the case.

### **Applicable law**

8. The AIBA Anti-Doping Rules in force at the time Ms. Crews’ sample was taken were the Rules as approved in October 2005 which came into effect on 1 January 2006. AIBA has subsequently adopted new Anti-Doping Rules with effect from 1 January 2009 (i.e., before the hearing and decision of the AIBA Anti-Doping Hearing Panel). By Article 18.7 of the 2009 Rules:

*“These Anti-Doping Rules shall come into full force and effect on 1 January 2009 (the “Effective Date”). They shall not apply retrospectively to matters pending before the Effective Date; provided, however, that:*

*18.7.1 Any case pending prior to the Effective Date, or brought after the Effective Date based on an anti-doping rule violation that occurred prior to the Effective Date, shall be governed by the predecessor to these Anti-Doping Rules in force at the time of the anti-doping rule violation, subject to any application of the principle of lex mitior by the hearing panel determining the case... ”.*

9. In the light of the wording of Article 18.7.1 of the 2009 Rules, Ms. Crews’ case was a “*matter pending*” on 1 January 2009. As a result the material versions of the 2006 edition of the AIBA’s Anti-Doping Rules apply. The issue of *lex mitior* does not arise in this case as the results would not vary under the 2006 or 2009 version of the AIBA Anti-Doping Rules.
10. In common with most if not all other sports the AIBA Anti-Doping Rules (2006 edition) provide for a two- year ban for a first doping offence. They also provide for mitigation of that two-year ban in certain circumstances. If a boxer establishes that he or she bears “*No Significant Fault or Negligence*”, then the period of ineligibility may be reduced, but the reduced period of ineligibility may not be less than one-half of the minimum period of ineligibility otherwise applicable (AIBA Anti-Doping Rules, 10.5.2). If the otherwise applicable period of ineligibility is a lifetime, the reduced period under this section may be no less than 8 years (*id.*). To take advantage of this mitigation the boxer must establish how the prohibited substance entered his or her system (*id.*).
11. Article 7.4 of the 2006 Rules provides for provisional suspensions following an adverse finding. It is common ground that Ms. Crews was treated as suspended with effect from the date of the failed test (i.e., back-dating the suspension to a date before the result of the analysis became known).
12. Counsel for Ms Crews drew particular attention to Articles 8.1 and 8.3 of the 2006 Rules. These Rules provide as follows:

*“ARTICLE 8: RIGHT TO A FAIR HEARING*

*8.1 Hearings arising out of AIBA Testing or Tests at an International Event, for sanctioning beyond disqualification.*

*8.1.1 The AIBA Executive Committee shall appoint a standing panel consisting of a Chair, the AIBA DCSC Chair and four other experts with experience in anti-doping (“AIBA Doping Hearing Panel”). The Chair shall be a lawyer. Each panel member shall be otherwise independent of his National Member Association in so far as he is not an elected officer, employee, consultant or holds a position of responsibility within a Member Association. Each panel member shall serve a term of four years.*

*8.1.2 When it appears, following the Results Management process described in Article 7, that these Anti-Doping Rules have been violated in connection with AIBA Testing or Testing at an International Event then the case shall be assigned to the AIBA Doping Hearing Panel for adjudication.*

*8.1.3 The Chair of the AIBA Doping Hearing Panel shall appoint three members from the panel (which may include the Chair) to hear each case. At least one appointed member shall be a lawyer. The appointed members shall have had no prior involvement with the case and shall not have the same nationality as the Athlete/Boxer or other Person alleged to have violated these Anti-Doping Rules.*

*8.1.4 Hearings pursuant to this Article shall be completed expeditiously following the completion of the results management process described in Article 7. Hearings held in connection with Events may be conducted on an expedited basis.*

...

*8.3 Principles for a Fair Hearing. All hearings pursuant to either Article 8.1 or 8.2 shall respect the following principles:*

- *a timely hearing;*
- *fair and impartial hearing panel;*
- *the right to be represented by counsel at the Person's own expense;*
- *the right to be informed in a fair and timely manner of the asserted anti-doping rule violation;*
- *the right to respond to the asserted anti-doping rule violation and resulting consequences;*
- *the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing panel's discretion to accept testimony by telephone or written submission);*
- *the Person's right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost of the interpreter; and*
- *a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of ineligibility”.*

13. The 2009 version of the AIBA Anti-Doping Rules in relation to the Principles for a fair hearing is in identical terms to Article 8.3 above, and is in accordance with the World Anti-Doping Authority's requirements in respect of a fair hearing.

## **Merits**

14. There is no dispute that the anti-doping test on Ms. Crews was properly carried out and that the prohibited substance was found in the A and B samples provided. Ms. Crews accepts that had a timely hearing been carried out by a duly constituted panel some sanction would have been imposed on her. She asserts that even in these circumstances the facts of the case are such that the usual penalty of two years ineligibility from the date of the taking of the sample ought to have been mitigated so that any period of ineligibility imposed should not exceed eighteen months.
15. Thus the problems which have to be considered are (1) the challenge to the constitution of the Anti-Doping Hearing Panel; (2) the delay in the hearing by the Anti-Doping Hearing Panel; and (3) the consequences of its findings in relation to those two matters. The panel must also consider Ms. Crews' assertion that in any event the two-year ineligibility period should be reduced.

16. The delay in the hearing cannot be excused on the grounds given by AIBA. While it seems that there was some initial delay on the part of USA Boxing, Ms. Crews does not complain of any delay occurring before 29 May 2009 when (following an extension of time given to her at her counsel's request) she put in her written submissions. From then until October there were unjustifiable delays on the part of AIBA. While a change of administrative personnel can complicate matters and lead to some short period of delay, it is unacceptable that the international governing body of a major sport should allow a matter so important to the athlete simply to remain dormant for some four months until goaded into action by counsel on behalf of the athlete. It is equally unacceptable that a person appointed to chair a disciplinary body which is entrusted with determining a doping charge should without any apparent reason or excuse simply fail to take any step towards holding a hearing or resolving the issues in the case. This is especially the case given that the United States Anti-doping Agency (USADA) would have provided the initial hearing for Ms. Crews in the United States, under AIBA Rules, with no cost to AIBA (See, Protocol For Olympic and Paralympic Movement Testing, January 1, 2009). Further, had USADA conducted the initial hearing, Ms. Crews would have been able to afford an in-person hearing with an impartial panel of CAS arbitrators at a location convenient for her to attend (*id.*).
17. As the new panel which was appointed once the motion to dismiss had been submitted, there was no obligation of AIBA to appoint a panel which had no connection at all with AIBA. An AIBA Doping Hearing Panel is not an arbitral panel recognised as such under Swiss law. On the contrary, it is considered to be an organ of the association and – as such – does not need to meet the same level of independence as an arbitral tribunal. This is demonstrated in particular by *G. v. Federation Equestre Internationale* (Swiss Federal Tribunal 15 March 1993). The case was cited by counsel for Ms Crews and concerned the question whether the Swiss Federal Court had jurisdiction over particular tribunals as arbitral tribunals. This depended on whether those tribunals had sufficient independence to be classified as a matter of Swiss law as arbitral tribunals.
18. In the instant case Ms. Crews had agreed to be bound by the rules of the AIBA and the question to be answered is whether the AIBA Doping Hearing Panel which dealt with her case was properly appointed under those rules by which she had agreed to be bound, not whether the panel would pass muster as an independent arbitral tribunal under Swiss law. While the system itself has been approved by the World Anti-Doping Agency this does not advance matters. That Agency is concerned with the detection and elimination of doping in sport and its imprimatur is no guarantee of the quality of any particular tribunal.
19. So far as the assertion that there might have been actual bias on the part of the AIBA Panel, the allegation was made unsupported by any evidence whatsoever. It is regrettable that counsel for Ms. Crews saw fit to make the assertion.
20. As to the allegation of apparent bias, the AIBA rules contain provisions to protect the athlete. There is a standing AIBA Doping Hearing Panel consisting of a Chair, the AIBA DCSC Chair and four other experts with experience in anti-doping. The Chair has to be a lawyer. Each panel member shall be otherwise independent of his National Member Association in that he cannot



be an elected officer, employee, consultant or hold a position of responsibility within a Member Association. Each panel member shall serve a term of four years. In each case the Chair of the AIBA Doping Hearing Panel must appoint three members from the panel (which may include the Chair) to hear the case. At least one appointed member shall be a lawyer. The appointed members shall have had no prior involvement with the case and shall not have the same nationality as the person alleged to have violated the Anti-Doping Rules. The rules do not provide for Ms. Crews to have any say in the membership of the panel appointed to deal with her case and her complaint that she was not allowed to nominate a member of the panel is without foundation.

21. It must be borne in mind that in the case of an alleged violation of the doping rules AIBA has in general no interest in which whether or not the offence is found to be proved. Its concern is with the proper administration of the sport and ensuring that those who are guilty of doping offences are punished. It has in general no particular interest in the result of any particular case. It is only in cases where there is some allegation of misfeasance by AIBA or some representative of it that questions might be raised as to the possibility of some apparent bias. The protection against this possibility is in the important provision that *“The appointed members shall have had no prior involvement with the case...”*. This is a requirement which must be strictly observed.
22. In the present case there can be no complaint as to the appointment of two members of the panel, Mr. Pautot and Dr. Bucari. The potential problem arises in relation to the third member of the panel, Dr. Mortensen. It is to him that the motion to dismiss evidently came in September. It was he who passed the motion to dismiss to the attention of the AIBA Legal Manager. At this point it was apparent that there was a serious criticism being made of AIBA’s handling of the case. He was not at that point a member of the panel then appointed to deal with the case. At that stage the AIBA Panel comprised Ms. Alicia Garcia-Franco, Dr. Hamid Khadri and Dr. Sante Bucari. In the view of this panel when the AIBA Panel was reconstituted under the chairmanship of Mr. Pautot it could not be said that Dr. Mortensen *“had no prior involvement with the case”*. He was therefore not eligible to be a member of the AIBA panel.
23. It must follow from this that the proceedings of, and decision by, the AIBA panel are fatally flawed, whether or not the delay involved also affects the validity of the decision.
24. Because an appeal before CAS is treated as being an appeal by way of complete re-hearing rather than review this CAS Panel can reconsider the case *de novo* and thus cure the defect in the composition of the original AIBA Anti-Doping Hearing Panel. (CAS 2008/A/1480, May 16, 2008; CAS 2008/A/1574, Introductory note 1 and 21 and 22 – under CAS, the parties have agreed on a completely fresh hearing of the dispute). This CAS jurisprudence is in line with European Court of Human Rights decisions, which in par. 41 of the Wickramsinghe Case (Wickramsinghe v UK [1998] EHRLR 338 (9/12/1997) concluded that *“even where an adjudicatory body determining disputes over civil rights and obligations does not comply with Article 6 (1) (ECHR) in some respect, no violation of the Convention will be found if the proceedings before that body are subject to subsequent control by a judicial body that has full jurisdiction and does provide the guarantees of Article 6 (1)”*. In doing so it must take account of two matters in particular, the delay that has already occurred and the

difficulty facing Ms. Crews in producing the evidentiary material on which she would wish to rely.

25. The AIBA expressed itself as not being satisfied with the explanation which Ms. Crews gave as to how the offending substance came to be in her body. That finding cannot survive the setting aside of the decision on the ground that the AIBA Panel was not properly constituted. A re-investigation of all the facts would be unduly onerous and expensive for Ms. Crews, even if (contrary to the assertions made on her behalf) she were able to gather all the evidence on which she wishes to rely for a fresh hearing. In the view of this fact the only fair way in which this Panel can proceed in the particular circumstances of this case is by accepting at face value the factual case which Ms. Crews advanced as to how the offending substance came to be in her body.
  
26. That case was that put in these terms in the pre-hearing brief put before the AIBA panel: *“The evening before the championship match, on October 6th, the host country of Trinidad and Tobago threw a party for all the participants, coaches, and staff of the games. Franchon attended the party, but was not eating or drinking because of her determination to make weight the next morning for the championship match. She wore her rubber waist band and danced to sweat and lose any weight she could. Franchon claims that she was a small scale celebrity at the games, with people dubbing her “Miss Personality”. It was not uncommon for people to know who she was, without her knowing them. During this party, an unknown gentleman approached [her] and questioned her as to why she was not eating or drinking. She explained to him that she was trying to make weight for the next morning. The gentleman then handed her a sports drink, with its label in a foreign language, and told her that it will help replenish her electrolytes for competition the next morning. [Ms. Crews] took the drink, and placed it in her dorm refrigerator overnight. After she successfully made weight the next morning, she took the sports drink to replenish her fluids. [Ms. Crews] believes that this beverage, given to her at the Pan-Am sponsored party, is the source of the Phentermine that she tested positive for”*.
  
27. The submission made to the AIBA Panel was that Ms. Crews had established on the balance of probabilities that this was how the prohibited substance had entered her system and that in these circumstances she *“bore No Significant Fault or Negligence”*. It was submitted that in these circumstances the period of ineligibility should be reduced. The initial brief submitted that the period of suspension should be no more than 18 months.
  
28. In the view of this Panel, accepting at face value the account which Ms. Crews gave of how the phentermine entered her system, it cannot be said that she *“bore No Significant Fault or Negligence”*. All athletes competing at international level are, or at the very least should be, well aware of the need to take extreme care as to what they allow to enter their bodies (CAS 2005/A/830, 10.10; CAS 2005/A/951, 8.9.). For an athlete to accept a *“sports drink”* with a label in a language she cannot understand from a person she did not know to *“help replenish her electrolytes”* for competition and then to consume it without making any inquiry about its contents constitutes as clear and obvious a case of negligence as it is possible to envisage.
  
29. So far as delay is concerned, Ms Crews’ case is that the remedy for the unacceptable delay on the part of AIBA is to dismiss the charge against her. This, it is suggested, will prevent similar occurrences in the future. In the view of the Panel there is a logical inconsistency in this

argument. Whilst it is important to bring home to AIBA the importance of dealing properly and promptly with anti-doping matters, it does not follow that the appropriate way to do this is by allowing an athlete to escape the consequences of her actions. This would merely advantage the athlete and act to the disadvantage of those other athletes who had not committed doping offences.

30. It is important that the boxer should not have been disadvantaged by the delay, but once it is established that there is no disadvantage, there is no reason why a sanction should not be imposed. Since in the present case the appropriate penalty is one of two years ineligibility and the period of ineligibility is to run from the date of the sample collection, there is no prejudice to Ms Crews in the delay.
31. It follows the appropriate course for this panel to take is to partially uphold the appeal filed by the Appellant and to confirm the original decision of AIBA Doping Hearing Panel. It further dismisses all other prayers of relief.

**The Court of Arbitration for Sport rules:**

1. The appeal filed by Ms Franchon Crews on 28 October 2009 against the decision rendered on 8 October 2009 by the AIBA Anti-Doping Hearing Panel is admissible and upheld.
  2. The decision rendered on 8 October 2009 by the AIBA Anti-Doping Hearing Panel is confirmed.
- (...)
5. All other and further claims are dismissed.