



25th November 2016

Mr. Heinrich Otto

[...]

[...]

[...]

Dear Mr. Otto

CHARGES: ANTI-DOPING RULE VIOLATION: CONSEQUENCES: WRITTEN DECISION TO BE PLACED BEFORE A TRIBUNAL FOR CONSIDERATION

Introduction

1. Our previous letters and notices which we attach refer. The South African Institute for Drug Free Sport (SAIDS) and all participants in sport are required to act in accordance with the South African Institute for Drug Free Sport Anti-Doping Rules 2015 and World Rugby Anti-Doping Regulations (“the Rules”).
2. You have been notified of an Anti-Doping Rule Violation in terms of Article 2.1 of the Rules for the use of 19-norandrosterone in respect of a sample (sample number 4013677) collected on the 12 July 2016.
3. You have not disputed the adverse analytical finding but you would like to submit reasons for a possible reduction in sanction.
4. SAIDS is required, in circumstances where there is no dispute as to the adverse analytical finding¹:-
 - a. to issue a written decision confirming the commission of the Anti-Doping Rule Violation and the Consequences that will be imposed should you not elect a hearing;

¹ Article Rule 7.10.3 of the Rules



- b. to set out the reasons for the period of Ineligibility imposed and (if applicable) a justification as to why the maximum period of Ineligibility was not imposed;
 - c. to send copies of the decision to other Anti-Doping Organizations, viz. South African Rugby Union (SARU), World Rugby and the World Anti-Doping Agency (WADA) with a right of appeal and to make Public Disclosure.
5. SAIDS has assessed the facts of your case, has arrived at a decision, and this letter sets out that decision and the reasons it has been arrived at.
 6. In view of your early admission and the need for an assessment of the matters you have raised SAIDS has elected to set the matter down before a hearing panel to enable you to make such representations and place such facts and circumstances before the panel as you believe may be appropriate in relation to the Consequences that SAIDS contends should apply.

The Anti-Doping Rule Violation

7. You have committed and are guilty of the Anti-Doping Rule Violation referred to above. In other words of the Anti-Doping Rule Violation set out in point 2.

Consequences

8. The Consequences that the Rules contemplate distinguish between Prohibited Substances that are Specified Substances and those that are not. The Consequences for the use of Prohibited Substances that are not Specified will in most instances include a four (4) year period of ineligibility. Where a substance is Specified the athlete can also be ineligible for such a period if SAIDS demonstrates that the Anti-Doping Rule Violation was intentional.
9. Where SAIDS does not demonstrate intentional use then the period of ineligibility the Rules provided for is two (2) years. The period of two (2) years can be reduced in certain specified



circumstances which require you to show that you bore no significant fault or negligence here.

10. In these circumstances the appropriate Consequences without any reduction is a period of *Ineligibility* of Four (4) years. You were provisionally suspended, therefore your period of suspension would be effective as of the date of your provisional suspension, being 26th September 2016.

11. The reasons for the imposition of these Consequences are that: -

- a. the substance in question is 19-norandrosterone;
- b. SAIDS is not required, in the circumstances, to prove anything more than presence and no factors have been advanced by you that would suggest there is a basis for reducing the period of ineligibility and doing so would be unfairly discriminatory towards other athletes;
- c. there is no basis for SAIDS to reduce the period of Ineligibility in these circumstances but you are afforded an opportunity to deal with the matter at a hearing should you have facts and circumstances to allege that could have that effect.

Sanction Period

12. The period of ineligibility will be applicable as of 26th September 2016 until and including 25th September 2020.

Your Right to Hearing

13. Although you have waived your right to a hearing you have made an early admission and have made representations and sought assistance and guidance and consequently you are invited to consider these Consequences and decide whether you wish to be afforded a hearing to focus only on the question of the Consequences.



14. Should you elect to have a hearing on this aspect you should notify SAIDS and e-mail Fahmy Galant (fahmy@said.org.za) by no later than 13h00 Thursday, 1st December 2016, that you wish to have a hearing.

15. Should you elect to have a hearing one will be convened and you should indicate which of the following Cities I.e. Cape Town, Bloemfontein, Port Elizabeth, East London, Durban, Johannesburg you wish your hearing to be heard in.

16. Should you **not** elect to have a hearing the Consequences will be as set out above.

Yours faithfully

Michael Murphy
(Legal Counsel)