

21st November 2019

Athlete: Khulekani Mkhize
Sport Code: Bodybuilding

Address: [...]
[...]
[...]

Dear Mr. Mkhize,

CHARGES AND CONSEQUENCES: ANTI-DOPING RULE VIOLATION

Introduction

1. 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.
2. You have been notified of an Anti-Doping Rule Violation in terms of Article 2.1 of the Rules for the presence of **Furosemide** and **Tamoxifen** in your “A” sample (**sample number 4456238**).
3. 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 Anti-Doping Organisations, viz. Bodybuilding South African (IFBB SA), International Federation of Bodybuilding and Fitness (IFBB) and South African Sports Confederation and Olympic Committee (SASCOC) with a right of appeal and to make Public Disclosure.
4. 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.

The Anti-Doping Rule Violation

5. 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

6. 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.
7. Where SAIDS does not demonstrate intentional use then the period of ineligibility under 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.
8. In these circumstances the appropriate Consequences without any reduction is a period of *Ineligibility* of two (2) Years for prohibited substances that are Specified Substances. Taking into consideration your case and the facts before SAIDS, you

were notified by SAIDS of your Adverse Analytical Finding on the 23rd of October 2019 in which you have responded.

9. In the aforementioned correspondence you have, *inter alia*, confirmed the following:

9.1 That you do not dispute the findings and set out your assertions for the said findings and provided SAIDS with a prompt admission;

9.2 That you are able to provide SAIDS with the source that returned an AAF against you, however, you were not able to prove same or provide SAIDS with concrete evidence in the form of photographs;

9.3 Despite your failure to provide SAIDS with photographs, you have provided SAIDS with the route of administration and the form of the prohibited substance which you took;

9.4 You have also provided SAIDS with the reasons why you took the prohibited substance;

9.5 SAIDS, in the circumstances have also noted from your correspondence that you received no anti- doping education;

9.6 Furthermore, the reasons you have provided for why you took the prohibited substance is plausible.

9.7 Your first time entered into bodybuilding competitions were 2018.

10. As a result, you have provided the origin of the prohibited substance and SAIDS is able to assess the degree of fault or the seriousness of your violation.

11. In this respect, you are eligible for a reduction in terms of Art. 10.5.1.1 read with Art. 14.2.1 and your total period of ineligibility is twenty (20) months.

12. You were provisionally suspended, therefore your period of suspension would be effective as from the date of notification, being 23 October 2019.

BOARD MEMBERS: JUDGE L. MPATI (CHAIRPERSON), MR. G. ABRAHAMS, DR. H. ADAMS, MR. D. BAYEVER, DR. S. MANJRA, DR. M. PEENZE, DR. M. QOBOSE, MR. M. QUINN, PROF. L. SKAAL, DR. P. ZONDI, MR. K. GALANT (CEO)



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

- a. The substances in question in your A sample are Prohibited Specified Substances.
- 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 conclude that you were not negligent in these circumstances.

Sanction Period

14. The period of ineligibility will be applicable as of 23 October 2019 until and including 23 June 2021.

15. You have a right to appeal this matter as per the below mentioned and the process is as follows:

- a) You must give notice of your appeal in writing to SAIDS to the SAIDS Legal Manager, Wafeekah Begg at e-mail address wafeekah@suids.org.za within **21 (twenty-one) days i.e. 21 calendar days as of the date of this notice, therefore should you want to appeal, your Notice of Appeal is due by the 17:00 on the 10 December 2019;**
- b) Your notice must incorporate or be accompanied by your grounds of appeal and must include an address (email, fax number, and/or street address) for SAIDS to provide you with an invoice in respect of appeals **(the appeal fee is R1000.00);**
- c) Upon receipt of the notice and grounds SAIDS will provide you an invoice in respect of the appeal and the appeal fee must be paid and proof of payment provided to SAIDS within **seven (7) days** of the date of the invoice;
- d) The failure to comply with these procedural rules will mean the appeal will not proceed.

16. The appeal hearings may be heard in Johannesburg or Cape Town or Durban. You need to confirm with us which of the regions will be suitable for you should the appeal proceed.

17. Please acknowledge receipt of this letter.

Yours sincerely

**South African Institute for
Drug-Free Sport**



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**Wafeekah Begg
(Legal Manager)**

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