

**DECISION OF THE ATHLETICS INTEGRITY UNIT IN RESPECT OF VIOLATIONS OF  
THE INTEGRITY CODE OF CONDUCT COMMITTED BY MR ROBERT WAGNER**

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**A. Introduction**

1. On 3 April 2017, World Athletics (formerly the IAAF) established the Athletics Integrity Unit (**AIU**) in accordance with the 2017 IAAF Constitution under the IAAF Athletics Integrity Unit Rules (the **AIU Rules**). The role of the AIU is to protect the integrity of the sport of Athletics, including by investigating and prosecuting breaches of integrity within the IAAF Rules and Regulations (including the Integrity Code of Conduct).
2. The Integrity Code of Conduct (the **Integrity Code**) came into effect on 3 April 2017 and applies to various persons and entities (called Applicable Persons) and sets out the Integrity Standards intended to protect the integrity, authenticity and reputation of the sport of Athletics.
3. The AIU Rules provide that the functions of the AIU include investigating and prosecuting alleged violations of the Integrity Code by Applicable Persons, including responsibility for any appeals and or other proceedings arising from such prosecutions.
4. Mr Robert Wagner (**Mr Wagner**) was at all material times an Authorised Athlete Representative and, as such, an Applicable Person for the purposes of the Integrity Code.
5. This decision is issued by the AIU pursuant to Rule 5.8 of the IAAF AIU Reporting, Investigation and Prosecution Rules (Non-Doping), which provides as follows.

5.8 *"In the event that [...] the Applicable Person admits the Non-Doping Violation(s) charged and accepts the consequences and sanctions specified (or is deemed to have done so in accordance with Rule 5.5), a hearing before the Disciplinary Tribunal shall not be required. If this occurs, the Integrity Unit:*

5.8.1 *will promptly issue a decision confirming [...] the admission of the Non-Doping Violation(s) and the imposition of the specified consequences and sanctions;*

5.8.2 *will Publicly Disclose any decision confirming the admission of the Non-Doping Violation(s) and the imposition of the specified consequences and sanctions in accordance with the Disciplinary Tribunal Rules [...]"*

## B. Factual Background

6. On 18 December 2017, the Daily Telegraph newspaper published an article entitled “*Exclusive Investigation: World 100m champion Justin Gatlin embroiled in new doping scandal*” (the **Article**).
7. The Article included a link to a video of undercover footage which is the subject of description in the Article. The video footage was taken between July 2017 and December 2017.
8. The Article alleged, amongst other things:
  - 8.1. “*A Telegraph investigation uncovered how members of [Gatlin’s] team offered to provide prescriptions in a false name and smuggle the substances to the United States*”;
  - 8.2. “*Undercover reporters posed as representatives of a production company making a film about athletics. They said that they wanted to find people to train the star of the film, so that he could be in shape to play an athlete.*”
  - 8.3. “*Undercover reporters visited Gatlin’s Florida training camp where his coach and an athletics agent [Mr Wagner] offered to supply and administer testosterone and human growth hormone ... The products were to be provided via a doctor in Austria. The total fee for the project was to be \$250,000 (£187,000)*”.
  - 8.4. “*The agent [Mr Wagner] suggested that both testosterone and human growth hormone might be useful to ensure that the actor got into shape quickly, and that the prescription for the products could be acquired in his name and via a doctor who already supplied the products to him [you] personally.*”
  - 8.5. “*The coach, the former Olympic gold medallist Dennis Mitchell, and the agent, Robert Wagner, were also secretly recorded claiming that the use of banned substances was still widespread as they described how positive doping tests could be avoided.*”
9. In relation to the allegation that Mr Wagner offered to supply testosterone and human growth hormone to an actor, he made the following statements in the secretly recorded footage published by the Daily Telegraph:
  - 9.1. An undercover reporter asks Mr Wagner, “*Who is actually going to be deciding what he needs and how much?*”. Mr Wagner interjects and states “*Who is going to be deciding?*” The undercover reporter continues, “*and then actually administering it?*”, to which Mr Wagner replies, “*me and Dennis*”;
  - 9.2. Mr Wagner states, “*I will send you a picture in an e-mail so you know exactly what is going to be given*”;
  - 9.3. An undercover reporter asks, “*Are you saying you will get it in your name, bring it over yourself and then?*” Another reporter interjects, “*...I don’t know but in terms of quantities, would you be able? I think we just need to check whether you can...*” and Mr Wagner responds as follows: “*I fly to America once a month. This, this is a little box I bring*” and

- continues, “[...] for personal use I can always bring whatever I want, especially when I have a paper that goes with it, which has my name in my suitcase.”;
- 9.4. One of the undercover reporters asks *“Is there a reason why an American physician can’t be used? Am I missing something?”* and Mr Wagner answers, *“Well he has to provide somebody’s name on the...do you want your name on it? I don’t think so. A relay coach in USA track and field? I don’t think you want a banned substance on your name.”*
10. After this recorded conversation, on 11 November 2017, Mr Wagner sent an email to one of the undercover reporters detailing the proposed fees for the project. He confirmed that his own role would be *“overall co-ordination, team management, special nutrition organization”*.
11. Shortly after that email, on 11 November 2017, Mr Wagner sent a further email entitled *“Nutrition”* and stated:
- “Dear [...]*
- here [sic] also as promised a picture of the special nutrition and the insulin needle which will be used.*
- No nutrition will be given intravenous, all with those simply under the skin into stomach skin.*
- Best regards,*
- Robert”*
12. Attached to the email was a photo of a syringe and a vial of a substance with a partially legible label which read, *“Peptide FRAG 176-19...”* and which appeared to be labelled with advice stating *“For Laboratory Research”* and *“Not for Human Consumption”*.
13. In relation to the allegation that Mr Wagner claimed the use of doping substances was widespread, Mr Wagner made the following comments in the secretly recorded footage published by the Daily Telegraph:
- 13.1. *“I cannot tell you openly in front of five people that this is what we’re always doing left and right. This is what track and field is about.”;*
- 13.2. *“You think Justin is not doing this? Do you think Dennis wasn’t doing this? Everybody does it! This is a daily situation for us.”;*
- 13.3. The undercover reporter asks, *“But its recent enough that? Cos if they say...”* And Mr Wagner interjects, *“Three months ago? Before the season ended? Right now. Obviously, and as soon as the season starts. Justin is going to do it, just like every other sprinter in America is going to do it. They have to do it.”*
14. Mr Wagner provided the Daily Telegraph with the following explanation of what he had been recorded as saying in the undercover footage, *“I wasn’t involved in doping...Obviously I played along because I knew what was going on. I had to get them hooked.”* When asked about his

claims that his colleagues used banned substances, he said: *"I told her [the undercover reporter] that to get the job."*

15. On 21 November 2017, prior to the Daily Telegraph publishing the Article, Mr Wagner wrote to the AIU providing an explanation of the contact that he had had with the undercover reporters, posing as agents of a film production company. In particular, Mr Wagner stated, *"I can tell and told this company what they wanted to hear in order to get that job and played along for a while but at some stage I have to follow the IAAF Integrity Code of Conduct and protect the people involved and myself."*
16. Mr Wagner wrote to the AIU again on 15 December 2017 providing further details, including details of what he had said about the use of growth hormones including allegedly by Justin Gatlin, and stating that a photograph of a sample of growth hormone he had sent to the undercover reporters was a sample that he had found in a hotel room at an athletics meet in Linz, which he had organised, and which he had forwarded to the relevant National Federation.

## C. AIU Investigation

### I. Notice of Prima Facie Case and Provisional Suspension

17. On 27 March 2018, the AIU issued Mr Wagner with a Notice of Prima Facie Case. The Notice of Prima Facie Case provided that, as an Authorised Athlete Representative in 2017, Mr Wagner fell within the definition of an Athlete Support Personnel and therefore that he was under the following duties under the Integrity Code:
  - 17.1. **Integrity Standard 6.3(a) Honesty**, *"to act with utmost integrity and honesty at all times including acting in good faith towards others and with mutual trust and understanding in all their dealings and in particular not to forge any document, falsify any authentic document or use a forged or falsified document."*
  - 17.2. **Integrity Standard 6.3(b) Clean Athletics**, *"to protect clean athletes and not engage in Doping, and in particular to comply with the Anti-Doping Rules"*.
  - 17.3. **Integrity Standard 6.3(o) Reporting**, *"to promptly report to the Integrity Unit any act, thing or information which the person becomes aware of, which may constitute (on its own or with other information) a violation of this Code"*.
  - 17.4. **Integrity Standard 6.3(q) Protect Reputation**, *"to protect the reputation of the IAAF and not act, or fail to act, in any manner which may: (i) adversely affect the reputation of the IAAF or Athletics generally; or (ii) bring the IAAF or Athletics into disrepute; or (iii) be contrary to the objects of the IAAF; or (iv) be prejudicial to, or adversely affect the interest of, the IAAF or Athletics."*
18. The Notice of Prima Facie Case further provided that, as set out at Rule 7.1 of the Integrity Code: *"...it shall be a violation of this Code for an Applicable Person on or after 3 April 2017 to violate or fail to comply with any one or more of the Integrity Standards set out in Rule 6 (whether a Doping Violation or a Non-Doping Violation), including any one or more of the Rules referred to in this Code."*

19. The Notice of Prima Facie Case further provided that, as set out in Rule 8.1 of the Integrity Code: *“Every Applicable Person has an obligation to report, as soon as practicable, any act, thing or information which they become aware of, which may constitute (on its own or with other information) a violation of this Code, including any approaches or requests to engage in conduct that may constitute a violation of this Code.”*
20. The Notice of Prima Facie Case confirmed that the Head of the AIU had (i) concluded that there was a *prima facie* case of (a) violation(s) of the Integrity Code against him and (ii) caused investigation proceedings to be initiated into apparent breaches by Mr Wagner (of one or more of the above provisions) on the basis of the undercover footage taken and published and the reporting in the Daily Telegraph in the Article.
21. In particular, the Head of the AIU noted that the matters that warranted investigation included whether Mr Wagner:
  - 21.1. had participated in and/or facilitated the commission of doping offences in Athletics;
  - 21.2. had been aware of the commission of doping offences in Athletics, or information relevant to the potential commission of doping offences in Athletics, and had failed to report these acts or this information pertaining to the AIU; and
  - 21.3. had acquired or agreed to acquire medical substances for supply to another on the basis of a false prescription in his own name or otherwise improperly or dishonestly.
22. The AIU investigation was also to assess whether, if the matters Mr Wagner had been recorded as saying did not reflect the truth, he had made misleading statements which were apt to adversely affect the reputation of the sport of Athletics, to bring the sport into disrepute and/or to be prejudicial to or adversely affect the interests of the sport.
23. On 7 April 2018, the AIU wrote to Mr Wagner confirming the imposition of a Provisional Suspension upon him by order of the Chairman of the Disciplinary Tribunal and the commencement of investigation proceedings.

#### *II. Interviews with Mr Wagner*

24. On 17 April 2018, Mr Wagner attended before the AIU in Monaco for interview in accordance with a Demand issued by the AIU dated 7 April 2018.
25. In interview, the AIU asked Mr Wagner to explain the various statements and claims that he had made to the undercover reporters and to provide any information that he possessed in relation to those claims. Mr Wagner explained to investigators that the statements that he had made were exaggerated, false statements made principally in order to secure a purportedly lucrative contract that concerned preparing an actor for a forthcoming role as a sprinter in a feature film.
26. Mr Wagner further stated to investigators that the statements that he had made were not based on any actual specific knowledge, evidence or information other than circumstantial evidence that he had gained during his career working in the sport of Athletics or related to discreet (unrelated) matters that he had already reported (either to World Athletics or other third parties).

27. Mr Wagner confirmed that he had no further information or any evidence to corroborate his claims that Mr Justin Gatlin (and “*everybody else*”) was doping at certain points in the season or that Mr Dennis Mitchell was involved, aware and engaged in doping Mr Gatlin. Mr Wagner also claimed that he had exaggerated his ability to procure prohibited substances and transport them into the US using falsified medical documents and that he had never done so.
28. Towards the end of the interview on 17 April 2018, Mr Wagner admitted that he had violated the Integrity Code by making statements that were not grounded in truth and apologised for bringing the sport of Athletics “*into a situation*”:

*“I understand that I’m ... I violated the code of conduct in the sense that I made statements which I made in order to get a contract with a famous actor which were mentioned in a private conversation not to be for the public, but nevertheless, it should have never been said, especially since there was no truth to them. And, again, I apologise. I learned a very hard and traumatising lesson to myself that it cannot, not even in a private conversation in a pub or anywhere, say anything which brings the sport into a situation, which I did. I apologise. [...] I understand if you ... if you see these things, it is very bad and, as I said, it was never, ever intended to hurt the sport and I apologise very much for that.”*

29. Following his interview on 17 April 2018, the AIU continued its investigation into the matters raised in the Article and also Mr Wagner’s explanations for the statements that he had made to undercover reporters. In accordance with Rule 7.3 of the applicable AIU Reporting, Investigation and Prosecution Rules (Non-Doping), the investigation was conducted in conjunction with the United States Anti-Doping Agency (**USADA**).
30. In the context of that ongoing investigation, the AIU wrote to Mr Wagner on 27 March 2019 with a further Demand for him to attend for interview before the AIU and USADA in Monaco.
31. On 4 April 2019, Mr Wagner attended the AIU offices in Monaco for interview in accordance with the Demand and he was further questioned by investigators in relation to the claims that he had made and the information that he had provided to the undercover reporters.
32. Mr Wagner maintained in interview that the statements and claims that he had made to the undercover reporters were entirely false and unfounded.

### III. Challenge to the Provisional Suspension

33. On 8 April 2019, Mr Wagner submitted correspondence to the Disciplinary Tribunal via his then appointed legal representatives, requesting that his provisional suspension be lifted and that he be permitted to resume his work and representative obligations on a limited basis pending the outcome of the AIU investigation.
34. On 15 May 2019, Mr Wagner sent further correspondence to the Disciplinary Tribunal requesting the lifting of his provisional suspension.

35. On 24 May 2019, the AIU wrote to the Disciplinary Tribunal setting out its position that Mr Wagner had failed to demonstrate that the relevant criteria for lifting the provisional suspension had been met and rejected his request for the provisional suspension to be lifted.
36. On 28 May 2019, the Chair of the Disciplinary Tribunal wrote to Mr Wagner's appointed legal representatives and confirmed that he was not persuaded to exercise any power that he might have had to revoke the provisional suspension imposed upon Mr Wagner.

#### D. AIU Charge

37. On 6 April 2020, the AIU issued a Notice of Charge (the **Charge**) to Mr Wagner for violations of the Integrity Code. The Charge specified that, following a detailed and thorough review of the circumstances of this matter, including the information obtained during the course of the AIU investigation, the following conclusions had been reached:
  - 37.1. Mr Wagner is a highly experienced individual who occupies a privileged, influential and reputable role within the sport of Athletics *inter alia* as an Authorised Athlete Representative, operating at the elite level, alongside high-profile individuals and in relation to significant Competitions within the sport of Athletics;
  - 37.2. The statements made by Mr Wagner to undercover reporters concerned extremely serious matters that presented some of the gravest threats to the integrity of the sport of Athletics, including (i) doping practices engaged in by specific Athletes and Athlete Support Personnel, including the use of allegedly undetectable substances; (ii) that such practices were rife across the sport of Athletics (and particularly amongst sprinters); (iii) the procurement of doping substances under false pretences and the trafficking of those prohibited substances internationally; (iv) the administration of prohibited substances by Mr Wagner, or under his supervision/direction (and/or that of third parties), to others; and (v) Mr Wagner's own use of substances that are prohibited in the sport of Athletics;
  - 37.3. Mr Wagner had created a false and damning narrative (as summarised above) based on no real evidence or information that he actually possessed. Instead, the misleading statements had been made on the basis of general knowledge and information obtained via his experience in the sport and purely to satisfy the demands of the undercover reporters to ensure that he, and others, were the ultimate beneficiaries of a potentially financially lucrative (yet fictitious) contract related to the preparation of an unspecified actor for a forthcoming feature film;
  - 37.4. Mr Wagner's conduct in relation to the above was extraordinarily unprofessional in relation to the responsibilities and normal standards of behaviour expected of as an Authorised Athlete Representative;

- 37.5. Finally, Mr Wagner’s conduct, exposed by a broadsheet newspaper of worldwide repute and published on the front page of the newspaper (and featured in broadcast media), plainly served to bring the sport of Athletics into substantial and significant disrepute and adversely impacted both the reputation and the interests of World Athletics and the sport of Athletics more generally.
38. On the basis of the conclusions from the AIU investigation, Mr Wagner was duly charged with breaches of the following Integrity Standards (the **Non-Doping Violations**):
- 38.1. **6.3a. Honesty: to act with utmost integrity and honesty at all times including acting in good faith towards others and with mutual trust and understanding in all their dealings and in particular not to forge any document, falsify any authentic document or use a forged or falsified document;**
- 38.2. **6.3o. Reporting: to promptly report to the Integrity Unit any act, thing or information which the person becomes aware of, which may constitute (on its own or with other information) a violation of this Code; and**
- 38.3. **6.3g. Protect Reputation: to protect the reputation of the IAAF and not act, or fail to act, in any manner which may:**
- i. **adversely affect the reputation of the IAAF or Athletics generally; or**
  - ii. **bring the IAAF or Athletics into disrepute; or**
  - iii. **be contrary to the object of the IAAF; or**
  - iv. **be prejudicial to, or adversely affect the interest of, the IAAF or Athletics.**
39. Rule 11 of the World Athletics Disciplinary Tribunal Rules (the **Tribunal Rules**) sets out the range of consequences that a panel of the Disciplinary Tribunal may impose, as it deems appropriate, where it is decided that a Non-Doping Violation of the Integrity Code has been committed, including a period of ineligibility from the sport of Athletics:
- “11.1.10 a specified period of ineligibility, or life ban, from participating in any capacity in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned and/or supported in any way by the IAAF, Area Association or any National Federation (other than authorised education or rehabilitation programs)”.*
40. The consequences for Non-Doping Violations are to be determined based on an assessment of the relative seriousness of the violations of the Integrity Code, including a consideration of any aggravating and/or mitigating factors (set out in Rule 11.2 of the Tribunal Rules) that are applicable in the case.



41. In relation to the specific facts of this case, the AIU considered that the Non-Doping Violations committed by Mr Wagner constituted significant and serious violations of the Integrity Code. In particular, Mr Wagner's misleading and untruthful statements concerned one of the gravest threats to the integrity of the sport of Athletics (doping) and they were liable, on any view, to gravely and substantially affect the reputation and interests of World Athletics and to bring the sport of Athletics into disrepute.
42. On the other hand, the AIU recognised that Mr Wagner's cooperation with the AIU investigation and the remorse that he had displayed in his interviews with the AIU and USADA were factors that weighed in his favour in mitigation.
43. In all of the circumstances of the case, the AIU considered the appropriate consequences in Mr Wagner's case to be **a period of ineligibility of two (2) years** from participating in any aspect of Athletics and/or in any activities authorised, organised, controlled, recognised, sanctioned and/or supported in any way by World Athletics, its Area Associations or any of its Member Federations.

#### **E. Mr Wagner's Admission of the Charge**

44. On 7 April 2020, Mr Wagner admitted the Charge and accepted the above consequences for his Non-Doping Violations. Mr Wagner further and irrevocably waived his right to contest, challenge, dispute and/or appeal the Non-Doping Violations and/or the consequences.
45. As a result of the Provisional Suspension imposed by the AIU on Mr Wagner on 7 April 2018 (for which he is given credit), Mr Wagner's 2-year period of ineligibility for the Non-Doping Violations has now been served and he is eligible to participate again in the sport of Athletics with immediate effect.

#### **F. Public Disclosure**

46. In accordance with Rule 5.8.2 of the AIU Reporting, Investigation and Prosecution Rules (Non-Doping), the AIU shall Publicly Disclose this decision on the AIU website.

**Monaco, 16 April 2020**