

DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MR TONY HANNA

INTRODUCTION

1. World Athletics has established the Athletics Integrity Unit ("**AIU**") whose role is to protect the integrity of the sport of Athletics, including fulfilling World Athletics' obligations as a Signatory to the World Anti-Doping Code ("the "**Code**"). World Athletics has delegated implementation of the World Athletics Anti-Doping Rules ("**ADR**") to the AIU, including but not limited to the following activities in relation to International-Level Athletes: Testing, Investigations, Results Management, Hearings, Sanctions and Appeals.
2. Mr Tony Hanna ("the **Athlete**") is a 37-year-old Lebanese road runner and an International-Level Athlete for the purposes of the ADR¹.
3. This decision is issued by the AIU pursuant to Rule 8.5.6 ADR, which provides as follows:

"8.5.6 In the event that the Athlete or other Person either (i) admits the violation and accepts the proposed Consequences or (ii) is deemed to have admitted the violation and accepted the Consequences as per Rule 8.5.2(f), the Integrity Unit will promptly:

- (a) issue a decision confirming the commission of the violation(s) and the imposition of the specified Consequences (including, if applicable, a justification for why the maximum potential sanction was not imposed);*
- (b) Publicly Report that decision in accordance with Rule 14;*
- (c) send a copy of the decision to the Athlete or other Person and to any other party that has a right, further to Rule 13, to appeal the decision (and any such party may, within 15 days of receipt, request a copy of the full case file pertaining to the decision)."*

THE ATHLETE'S COMMISSION OF ANTI-DOPING RULE VIOLATIONS

4. Rule 2 ADR sets out that the following shall constitute an Anti-Doping Rule Violation:
 - "2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample*

[...]
 - 2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method"*
5. On 14 November 2021, the Athlete provided a urine Sample In-Competition at the Beirut International Marathon in Beirut, Lebanon, which was given code 4436208 (the "**Sample**").

¹ The Athlete's Anti-Doping Rule Violations arise from Testing conducted under the Testing Authority of World Athletics/the AIU in accordance with Rule 1.4.4(c) ADR.

6. Analysis of the Sample revealed the presence of Octodrine and its Metabolite, Heptaminol (the “**Adverse Analytical Finding**”).
7. Octodrine and Heptaminol are Prohibited Substances under the WADA 2021 Prohibited List under the category S6.B Specified Stimulants. They are Specified Substances prohibited In Competition.
8. The AIU reviewed the Adverse Analytical Finding in accordance with Article 5 of the International Standard for Results Management (“**ISRM**”) and has determined that:
 - 8.1. the Athlete did not have a Therapeutic Use Exemption (“**TUE**”) that had been granted (or that would be granted) for the Octodrine and Heptaminol found in the Sample; and
 - 8.2. there was no apparent departure from the International Standard for Testing and Investigations (“**ISTI**”) or from the International Standard for Laboratories (“**ISL**”) that could reasonably have caused the Adverse Analytical Finding.
9. Therefore, on 10 March 2022, the AIU notified the Athlete of the Adverse Analytical Finding in accordance with Article 5.1.2.1 of the ISRM, including that the Adverse Analytical Finding may result in Anti-Doping Rule Violations pursuant to Rule 2.1 and/or Rule 2.2 ADR.
10. Between 17 March 2022 and 9 April 2022, the Athlete provided his explanation for the Adverse Analytical Finding to the AIU. The Athlete did not dispute the Adverse Analytical Finding (and therefore admitted to Anti-Doping Rule Violations (i.e., the Presence and Use of a Prohibited Substance, viz. Octodrine and Heptaminol) pursuant to Rules 2.1 and 2.2 ADR). The Athlete also entered a voluntary Provisional Suspension since 17 March 2022.
11. In summary, the Athlete’s explanation set out that he:
 - 11.1. purchased a supplement called “TERMINAL SHOCK ROCKET ICE” (“the **Supplement**”) from a supplements store, in Beirut, Lebanon on 22 September 2021;
 - 11.2. was assured by the owner of the supplements store that the product was safe and did not contain banned substances;
 - 11.3. viewed a certificate from the Department of Agriculture of Pennsylvania (“the **Certificate**”) allegedly attesting to the safety of the Supplement during his purchase on 22 September 2021;
 - 11.4. searched for all ingredients of the Supplement as listed on the Supplement manufacturer’s website (<https://scilabsnutrition.com/product/terminal-shock/>) using Google, prior to his purchase;
 - 11.5. checked that the Supplement was not banned using web based resources from NSF Sport at <https://www.nfsport.com/about-us/> and by searching Global DRO via the website of Swiss Sport Integrity through <https://www.sportintegrity.ch/en/anti->

[doping/medicine/medication-inquiry-service](#) earlier in September (i.e., before his purchase)²;

- 11.6. was provided with urgent medical treatment for severe stomach pain/gastroenteritis on 7 November 2021 and was therefore unable to eat fully/properly in the period leading up to the marathon on 14 November 2021³. Therefore, in the seven (7) days before the marathon and the Sample collection on 14 November 2021, the Athlete took the Supplement on 10 November 2021, 13 November 2021 and finally on 14 November 2021, immediately before the start of the marathon; and
- 11.7. ingested the Supplement because he was unable to eat properly and wanted to compensate for a lack of vitamins and minerals due to reduced appetite in that period.
12. The AIU noted that, although the Athlete disclosed on the Doping Control Form from 14 November 2021 various medications that he had been prescribed to treat gastroenteritis and ingested in the previous seven (7) days, the Athlete failed to include the Supplement within those disclosures.
13. Through correspondence with the AIU, the Athlete clarified that he had failed to disclose the Supplement on the Doping Control Form because he had received medical treatment following the marathon (to treat apparent exhaustion) and explained that he was preoccupied with recalling and disclosing those medications that he had previously been given to treat his gastroenteritis rather than the Supplement.
14. The Athlete claimed that he had ingested the Supplement with no intention to enhance his performance in the marathon, but to compensate for his reduced nutritional intake due to gastroenteritis in the immediately preceding period.

CONSEQUENCES

15. This is the Athlete's first Anti-Doping Rule Violation.
16. Rule 10.2.1 ADR provides that the period of ineligibility to be imposed for the Presence/Use of a Prohibited Substance shall be determined as follows:

“10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

[...]

10.2.1 Save where Rule 10.2.4 applies, the period of Ineligibility shall be four years where:

- (a) *The anti-doping rule violation does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.*

² The Athlete stated that he “checked quickly by curiosity” and confirmed the search terms that he used to search for the Supplement by name using Global DRO.

³ The Athlete submitted contemporaneous medical documents corroborating his diagnosis of gastroenteritis and prescription of medications to treat this condition.

(b) *The anti-doping rule violation involves a Specified Substance or a Specified Method and the Integrity Unit can establish that the anti-doping rule violation was intentional*

10.2.2 If Rule 10.2.1 does not apply, then (subject to Rule 10.2.4(a)) the period of Ineligibility will be two years.”

17. Octodrine and Heptaminol are classified as ‘Specified Substances’. Rule 10.2.1 ADR specifies that an Anti-Doping Rule Violation for a ‘Specified Substance’ carries a 4-year period of Ineligibility if the AIU can establish that the violations were "intentional".
18. Rule 10.2.3 ADR explains that, in that context, the term "intentional" is meant to identify those who engage in conduct that they 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.
19. Given the facts set out above and the AIU’s further investigation into those facts, the AIU has not discovered any evidence sufficient to demonstrate that the Athlete’s Anti-Doping Rule Violations were 'intentional' within the meaning of Rule 10.2.3 ADR.
20. The mandatory period of Ineligibility to be imposed in the Athlete's case is therefore two (2) years, subject to a potential reduction pursuant to Rule 10.5 ADR (No Fault or Negligence) or Rule 10.6 ADR (No Significant Fault or Negligence) based upon the Athlete’s level of Fault⁴.
21. Rule 10.5 ADR (No Fault or Negligence) is manifestly inapplicable in the Athlete’s circumstances. There are no exceptional circumstances that exist in this case and the Athlete failed to exercise utmost caution, both of which are conditions to the application of Rule 10.5 ADR⁵.
22. However, the AIU accepts that Rule 10.6 ADR (No Significant Fault or Negligence) is applicable to the Athlete’s case:

“10.6.1 Reduction of the period of Ineligibility based on No Significant Fault or Negligence

10.6.1 Reduction of sanctions in particular circumstances for violations of Rule 2.1, 2.2 or 2.6

⁴ *“Fault: Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete’s or other Person’s degree of Fault include, for example, the Athlete’s or other Person’s experience, whether the Athlete or other Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete’s or other Person’s degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete’s or other Person’s departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in a career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Rule 10.6.1 or 10.6.2.”*

⁵ See the comment to Rule 10.5 ADR and the definition of No Fault or Negligence.

All reductions under Rule 10.6.1 are mutually exclusive and not cumulative

(a) *Specified Substances or Specified Methods*

Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish that they bear No Significant Fault or Negligence for the anti-doping rule violation(s) alleged against them, then the period of Ineligibility will be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of Fault."

23. According to the definition⁶, it is a condition precedent to the application of No Significant Fault or Negligence that the Athlete must establish (on the balance of probabilities) how the relevant Prohibited Substance(s) (in this case, Octodrine and its Metabolite, Heptaminol) entered his system⁷.
24. As described above, the Athlete's explanation (corroborated by documentary evidence) is that Octodrine and Heptaminol entered his system through ingestion of the Supplement. The Supplement has listed on the label "DMHA" which is another name for Octodrine. On this basis, the AIU accepts that it is more likely than not that the Adverse Analytical Finding was caused by the Athlete's ingestion of the Supplement.

MITIGATION OF SANCTION

25. To sustain a plea of No Significant Fault or Negligence, (Rule 10.6 ADR), the Athlete must demonstrate that his departure from the strict duty of care/standard of behaviour was not significant (objective analysis) and/or that there are legitimate reasons why he failed to take all the steps required to avoid the ingestion of a Prohibited Substance (subjective analysis) such that his overall level of fault should not be regarded as significant.

A finding of No Significant Fault or Negligence triggers a discretion under Rule 10.6.1(a) to impose a sanction ranging between a reprimand and a period of Ineligibility of two (2) years, depending on the Athlete's degree of Fault. The AIU has adopted the approach taken by the Court of Arbitration for Sport ("**CAS**")⁸ to determine the applicable level of Fault in this case. In particular, the AIU has undertaken a detailed assessment of the objective level of Fault and

⁶ "*No Significant Fault or Negligence: The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the anti-doping rule violation. Except in the case of a Protected Person or Recreational Athlete, for any violation of Rule 2.1, the Athlete must also establish how the Prohibited Substance entered their system.*"

⁷ The Athlete is not a Protected Person or Recreational Athlete as defined in the ADR.

⁸ See the cases concerning Tennis players Marin Cilic ([CAS 2013/A/3327](#) & [CAS 2013/A/3335](#)) and Sara Errani ([CAS 2017/A/5301](#)).

the Athlete's subjective level of Fault in the circumstances to reach a determination as to the appropriate Consequences in this case.

26. Noting that Octodrine and Heptaminol are prohibited In-Competition, per the reasoning in *Cilic*, the objective assessment of the Athlete's Fault must include whether he was sufficiently diligent in exercising the full scale of the duty of care incumbent upon him to prevent the ingestion of Octodrine.
27. Based on the specific circumstances of the Athlete's case (as summarised below), the AIU considers that that the Athlete has demonstrated that his Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relation to the anti-doping rule violations:
 - 27.1. the Athlete claims to have checked the ingredients of the Supplement using Google in advance of his purchase by referring to the ingredients as listed on the manufacturer's website. This list does not refer to "DMHA";
 - 27.2. according to the Athlete's explanation, the Supplement was sourced from a reputable store in Beirut, Lebanon '*where most Lebanese Athletes refer to [for] their supplementation*'.
 - 27.3. the Athlete asserts that he was assured by the store owner that the Supplement was safe and contained no banned substances;
 - 27.4. the Athlete also asserts that he (i) viewed the Certificate (which the Athlete alleged attested to the safety of the Supplement) and (ii) conducted internet searches of the Supplement prior to purchase, including using Global DRO via the website of Swiss Sport Integrity.
28. However, for the following reasons, the AIU considers that the Athlete's level of Fault, whilst not significant, nevertheless falls within the "normal" range⁹:
 - 28.1. although the AIU accepts that the manufacturers website does not list "DMHA" as an ingredient, had the Athlete also checked the ingredients that are listed on the product label of the Supplement (which expressly lists "DMHA") using, for example, Global DRO, following his purchase, this would clearly have alerted him to the prohibited nature of that specific ingredient;
 - 28.2. there is no evidence that the store owner was appropriately qualified or sufficiently expert to advise the Athlete with respect to the contents of the Supplement;
 - 28.3. the Certificate that the Athlete claims to have viewed during purchase is not a document that provides any material or useful information in relation to the safety of the Supplement's contents; it confirms only that the Supplement is produced in accordance with the Food Laws of Pennsylvania, USA. Moreover, the Certificate is

⁹ In a case of "normal" degree of Fault, the applicable sanction lays between 12 and 24 months depending on the application of any subjective criteria.

dated 2014 and, in any event, it does not refer to the Supplement that the Athlete ingested¹⁰; and

- 28.4. the AIU also notes that the resources available via NSF Sport do not provide any results when searching for the Supplement by name and that the Supplement is not listed on the list of all certified products available from the NSF sport website¹¹.
29. In relation to the subjective elements of Fault, the AIU considers the following factors to be in the Athlete's favour:
- 29.1. although the Athlete is considered an International-Level Athlete pursuant to the definition of such term in the World Athletics Anti-Doping Rules, the Adverse Analytical Finding resulted from the Athlete's first ever anti-doping test taken after his first high-level marathon competition¹²;
- 29.2. there is no evidence that the Athlete has ever received any formal anti-doping education;
- 29.3. although the Athlete possesses an apparent knowledge and awareness of anti-doping resources that assist with checking supplements and medications¹³, the AIU nevertheless considers that the Athlete remains inexperienced about anti-doping and his specific responsibilities in that respect;
- 29.4. the AIU is also prepared to accept in light of the Athlete's lack of anti-doping experience that he was (i) more preoccupied with recalling and disclosing the medications that he had been prescribed to treat gastroenteritis than the supplements he had been using; and (ii) that his physical condition following the marathon (apparent exhaustion) could potentially have affected his mindset, in particular, his appreciation of the specific requirement to recall and disclose use of the Supplement on the DCF.
30. In considering the specific facts of this case, including the objective and subjective elements concerning the Athlete's degree of Fault, the AIU has determined that the appropriate period of Ineligibility to be imposed in this case is a period of 16 months.
31. The Athlete has accepted a period of Ineligibility of 16 months by signing an Admission of Anti-Doping Rule Violations and Acceptance of Consequences Form on 1 June 2022.

¹⁰ Although the Certificate refers to several Terminal Shock products, the "Rocket Ice" flavour supplement that the Athlete ingested is not referenced on the Certificate.

¹¹ See <https://www.nsf sport.com/certified-products/>

¹² The Athlete's finish time in the marathon on 14 November 2021 was 2:33:04. By comparison, the entry standard for the World Athletics Championships Oregon22 in the marathon is 2:11:30.

¹³ The Athlete confirms that he was aware of these resources from "*teammates and trainers*".

DECISION

32. On the basis that the Athlete has admitted the Anti-Doping Rule Violations under Rule 2.1 and Rule 2.2 ADR, the AIU confirms by this decision the following Consequences for a first Anti-Doping Rule Violation:

32.1. a period of Ineligibility of sixteen (16) months commencing on 1 June 2022 with credit for the period of voluntary Provisional Suspension served by the Athlete since 17 March 2022 (i.e., until 16 July 2023); and

32.2. disqualification of the Athlete's results on and since 14 November 2021, with all resulting Consequences, including the forfeiture of any titles, awards, medals, points prizes and appearance money.

33. The Athlete has accepted the above Consequences for his Anti-Doping Rule Violations and has expressly waived his right to have those Consequences determined by the Disciplinary Tribunal at a hearing.

PUBLICATION

34. In accordance with Rule 8.5.6(b) ADR, the AIU shall publicly report this decision on the AIU's website.

RIGHTS OF APPEAL

35. This decision constitutes the final decision of the AIU pursuant to Rule 8.5.6 ADR.

36. Further to Rule 13.2.3 ADR, WADA and the Lebanese Olympic Committee have a right of appeal against this decision to the Court of Arbitration for Sport in Lausanne, Switzerland, in accordance with the procedure set out at Rule 13.6.1 ADR.

37. If an appeal is filed against this decision by WADA or the Lebanese Olympic Committee, the Athlete will be entitled to exercise his right of cross-appeal in accordance with Rule 13.2.4 ADR.

Monaco, 14 June 2022