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**Decision of the National Anti-Doping Disciplinary Panel.**

**Case Ref: NADDP 20210125**

**Anti-Doping Commission (Malta)**

**-vs-**

**Charlton Abela (ID No. 391861M)  
(Member of Għaqda Regatta Nazzjonali u  
Qdif leħor)**

The National Anti-Doping Disciplinary Panel (hereinafter referred to as the 'Panel') consisting of Dr. Maria Azzopardi as Chairperson, and Professor Janet Mifsud and Dr. Abigail Gauci as members.

Before the commencement of these proceedings, the members of the Panel declared that they are not subject to any circumstance or conflict that could negatively affect their impartiality in the case under review. The representatives of the parties confirmed that there is no objection to the composition of the Panel.

The hearing of the case was conducted through a visual telecommunication platform.

**1. Preliminaries**

Considered the Request by the National Anti-Doping Commission of the 19th October, 2020 to the Chairperson of the Panel to schedule a sitting for the hearing of a case concerning the alleged breach by Charlton Abela of the Anti-doping Regulations (Legal Notice 17 of of 2015, Sports Act, Chapter 455, Laws of Malta).

Took note and reviewed the following documents that were forwarded to the Panel at the initial stage by the Coordinator of the Anti-Doping Program and other documents presented by the athlete during the hearing of the case, namely:

- i. The Doping Control Officer Report Form dated 8/9/2020.
- ii. Lab Report dated 2/10/2020.
- iii. Letter of Notification by NADO to Charlton Abela of a possible violation of the Anti-Doping Rules dated 7/10/2020.
- iv. The letter by NADO to the National Association/Federation of the alleged breach by Charlton Abela dated 7/10/2020.
- v. Letter from the National Federation of the provisional suspension dated 9/10/2020 u email dated 20/10/2020.
- vi. The request to the Panel to schedule a hearing dated 11th November 2020.
- vii. Notification of Hearing by the NADDP.

Took note of the Notice issued by the Panel to Charlton Abela to appear before the Panel requesting the athlete to answer the accusation that:

- i) a prohibited substance or its metabolites or markers, tested positive for Drostanolone, a prohibited substance classed under S1.1 as an anabolic androgenic steroid in the 2020 WADA Prohibited List was

detected in your urine sample collected on the 8th September 2020 during the Jum il-Vittorja Regatta Edition 2020;

ii) this violation amounts to a second anti-doping rule violation.

The relevant articles of the law are Article 3 (2)(a) u (b) and Article 11 (5) to (10) of L.N 17 of 2015 of the Laws of Malta, that is:

Copy of the Notice of hearing was also forwarded to the Anti-Doping Commission, the Għaqda Regatta Nazzjonali u Qdif Ieħor and SportMalta.

Took note of the evidence as well as the oral and written submissions submitted by the parties.

## **2. Merits:**

2.1 When the case was called on the 4th of January 2021 appeared the athlete Charlton Abela assisted by Dr Keith Borg and Dr. Lucienne Attard and Ignatius Zammit on behalf of the NADO represented by Dr Christina Borg Debono.

2.2 During the hearing Dr. Borg submitted that the athlete is not contesting the finding of the test but the defence of the athlete is his non-responsibility to the finding of such substance in his body. The athlete gave evidence under oath and contended that he participated in the Regatta since the age of 14 years and he was just returning from a suspension for an anti-doping rule violation for testing positive to cocaine. He explained that he never took steroids and I have no explanation as to how this substance was found in my body. I wanted to do the testing of the B Sample but due to the costs involved I refused. During that period I was taking some medications which was prescribed by the medical doctor, namely *Lasilix*, *Ultraveen* and *Fucicort*. The athlete declared that he stopped taking this medication two weeks before the competition. He also declared that he was taking BCA, which was also mentioned by the athlete on the doping control form. The athlete admitted taking BCA on the day of the competition.

Dr Borg Debono pointed out that did the substance of Drostanolone which is not contained in any of the mentioned medication and thus asked the athlete how come this was found in his body. The athlete replied that he had no explanation to such finding and insisted that he does not make use of steroids apart from an instance in the past when he was young after and had sustained a ligament injury. When questioned by the Panel whether he had taken any other substances apart from those mentioned above and panadols, the athlete replies in the negative.

The parties confirmed that the athlete had accepted the provisional suspension dated 9th October 2020.

2.3 Dr. Borg Debono submitted that this type of substance “drostanolone”, a non-specified substance, is injected with the use of an injection and not by takings any pills or cream. This fact was not explained by the athlete who was not in a position to prove how this substance entered his body. This is the athlete’s second violation in less than ten years from the first violation. Thus, once should apply Article 11(5) of the Anti-Doping Regulations and thus, according to the law sub article (c) applies whereby the maximum suspension period should apply.

2.4 The athlete claimed that he did not take any injections.

### **3. Considerations:**

3.1 Taking into consideration the non-contestation on part of the athlete in relation to the adverse analytical finding, the Panel will delve into the defence of the athlete claiming that he did not make use nor did he take anything that may have contained such illicit substance.

3.2 The Panel remarks that when a doping test results positive, there is a presumption that the findings resulting from the testing process are correct and thus a doping violation exists on part of the athlete. It is then up to the athlete to prove otherwise and prove his innocence. The test is a direct evidence of the alleged anti-doping breach and therefore it is up to the athlete to prove the manner in which such substance entered his body. Thus, the result of a positive test provides a comfortable satisfaction to the Panel that there has been a violation on part of the athlete. The standard of comfortable satisfaction is considered as being greater than a mere balance of probability but less than proof beyond reasonable doubt. On the other hand, in order to contest such positive finding, the athlete rebutting the presumption of a positive doping test must bring forward the evidence which can convince the Panel. The standard of proof required on part of the athlete is based on a balance of probabilities. Moreover, in order for the athlete to rebut this presumption, there is the need to prove that the substance entered his body without his control and that the athlete used ordinary diligence and did not act in a negligent manner.

3.3 The substance resulting from the doping in-competition test is 'drostanolone' which is a non-specified substance. It is listed as an S1 anabolic agent, and is being prohibited at all times, in the WADA list of prohibited substances. It is a potent synthetic androgenic anabolic steroid similar to testosterone.

3.4 There was no request for a B-Sample and therefore the proof being brought before the panel is the laboratory result from the sample collection which a direct evidence. The athlete accepted a provisional suspension and NADO has pointed out that in case of guilt this is the second adverse doping rule violation.

3.5 Having considered the evidence being brought forward and the arguments above, the Panel concludes that on the basis of a comfortable satisfaction it has been proved that an anti-doping rule violation has been committed by the athlete and that the athlete has not brought forward the required proof to substantiate his innocence. Doping regulations stipulate that each athlete is responsible for anything found in his/her body and therefore once the doping test results positive it is up to the athlete to explain and provide proof of his non-responsibility. Moreover, an athlete has to understand that it is not enough to claim that he has no explanation to how the test has resulted into a positive test for 'drostanolone' but the onus of proof lies on the athlete to give a plausible explanation to exonerate him from responsibility and confirm that he acted in a diligent manner. The Panel has no reason to doubt the findings of the test and on the other hand has no plausible justification of how such substance has entered the athlete's body and therefore there is no reason to exonerate the athlete from his responsibility.

3.6 In this case when dealing with the substance found in the athlete's urine sample, namely 'drostanolone', the substance is a Non-Specified Substance and thus the applicable sanction in this case is that envisaged under Article 11 (2) (a) of L.N. 17 of 2015 of the Laws of Malta. Furthermore, the Panel is also bound to take into consideration the fact that this is the second anti-doping rule violation, thus in terms Article 11 (5) of L.N. 17 of 2015 it is to apply the "greater of" the sanctions, namely "*twice the period of ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under sub-regulation (4)(d)*".

**4. Decision:**

Therefore on the basis of the above considerations, the National Anti-Doping Disciplinary Panel rules that:

4.1 Charlton Abela has breached the Anti-Doping Regulations, 2015 [Art. 3(2)(a) & (b)] as the presence of a prohibited substance or its metabolites or markers has been found in the athlete's urine sample A that had been collected from him in-competition on the 8th September, 2020.

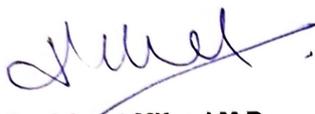
4.2 Charlton Abela has committed the second violation and in this regard the Panel makes reference to the first decision dated 24th March 2016 in which the athlete was found in breach of the anti-doping regulations during a sample collection taken place on the 8th September, 2015 and had received a four year suspension.

4.3 And therefore the National Anti-Doping Disciplinary Panel as provided under Art 11 (2) (a) and Art 11 (5) (c) of the Anti Doping Regulations, 2015 is imposing on the athlete Charlton Abela a suspension of ineligibility from any sports activities for a period of eight (8) years commencing from the 9th October 2020 being the date of the provisional suspension.

4.4 A copy of this decision is to be forwarded to the Għaqda Regatta Nazzjonali u Qdif Ieħor.



**Dr. Maria Azzopardi B.A. LL.D. LL.M (Sports Law)**  
Chairperson



**Prof Janet Mifsud M.D.**  
Member



**Dr. Abigail Gauci B.A. LL.D. LL.M (Int. Sports Law)**  
Member

**This, the 25th day of January 2021.**