

**THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORTS (SAIDS)  
DISCIPLINARY PROCEEDINGS**

In the matter between:

**THE SOUTH AFRICAN INSTITUTE FOR DRUG-FREE SPORTS**

**SAIDS**

and

**SEIPATI PEO**

**ATHLETE**

**DISCIPLINARY PANEL:**

Panel Member      Dr Mike Marshall

Panel Member      Mr Edries Burton

Chairperson        Mr Marius Hurter

**PROSECUTOR**

Mr Shane Wafer

**DESICION**

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- 1      Seipati Peo (the **Athlete**) is a well-known professional South African marathon athlete competing under the auspices of Athletics South Africa. She started off her career around 2004 competing in track and 10-kilometer events. She only started focusing on marathon distances since around 2013.
- 2      On 25 September 2022 the Athlete was asked to provide the South African Institute for Drug-Free Sports (**SAIDS**) with urine samples during an in-competition test at the Elliot Madeira Marathon.
- 3      After submitting the A-sample (Sample Number 180618V) for testing at the South African Doping Control Laboratory in Bloemfontein, the analytical report received on 11 January 2023 for this sample indicated an Adverse Analytical

Finding confirming the presence of **Stanozolol Metabolites 3'-hydroxy-stanozolol, 16 $\beta$ -hydroxystanozolol and 19-norandrosterone**.

- 4 In terms of the 2023 World Anti-Doping Code (WADC) Prohibited List, **Stanozolol Metabolites 3'-hydroxy-stanozolol, 16 $\beta$ -hydroxystanozolol and 19-norandrosterone** are not *Specified Substances* and are both listed as Anabolic Androgenic Steroids under Category S1.1, which are prohibited at all times (In- and Out-Of-Competition).
- 5 The Athlete has no Therapeutic Use Exemption for the substances found in the urine sample.
- 6 The Notice of Allegation (NoA) was issued on 18 January 2023 and SAIDS was required to implement a Mandatory Provisional Suspension pending final determination in line with Article 7.4.1 of the Anti-Doping Rules (ADR).
- 7 The Athlete waived her right to have her B-sample analyzed.

#### **PROCEDURAL MATTERS**

- 8 The foregoing lead to SAIDS convening a panel to hear the matter on 8 June 2023 virtually via Zoom meeting as per signed agreement by the parties dated 25 May 2023.
- 9 The jurisdiction of SAIDS to convene the hearing is not in dispute.
- 10 The Athlete was represented by Ms Nomasonto Mofokeng, a qualified attorney and conveyancer.
- 11 Ms Mofokeng asked for clarification of the charge as it appeared confusing to both her and the Athlete. After Mr Wafer explained the charge and gave some clarification, the Athlete pleaded guilty to the charge.
- 12 Ultimately, the question arose as to how the substance entered the Athlete's body. The Athlete did complete and signed the Doping Control Form, mentioning a few supplements used in the past seven days leading up to the event as required.
- 13 The Athlete further explained that her coach, who recently passed away during November 2022, used to mix her pre-race drink. She did not know what he used in this drink and never questioned him as her focus was on running and his was

to mix the drinks and support. She described their relationship as similar to a 'father and daughter' relationship and never questioned his doings.

- 14 The Athlete admitted that she was at fault by delegating and trusting her coach to do what he must do without questioning him. She further testified that she also did not take any injections in the last 2 (two) years and only sees her doctor when she feels sick.
- 15 Dr Marshall asked the question whether she used any eyedrops as some do contain 19-norandrosterone. The Athlete confirmed that she does use eyedrops but did not mention those on the Doping Control Form and did not have the eyedrops with her to submit as evidence. The hearing was adjourned for 9 (nine) days to give the Athlete the opportunity to produce the eyedrops and to verify if this particular eyedrops contained one of the banned substances through documentary evidence including closing arguments. This was not proven and even if it was, it did not address the presence of Stanozolol Metabolites 3'-hydroxy-stanozolol and 16 $\beta$ -hydroxystanozolol.

#### **INTENT**

- 16 When considering the Athlete's intention and Article 10.2.3 as used in Article 10.2 of the ADR, *"the term "intentional" is meant to identify those Athletes or other Persons who engage in conduct which 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"*.
- 17 The Athlete has made it clear (no evidence was produced) that she does not know how the prohibited substance entered her body and has not mentioned or even speculated on a potential source the for panel to consider. As stated in the case of *Jarrion Lawson v. IAAF*, the Athlete bears the burden of establishing that the violation was not intentional. In *WADA v SAIDS & Ruan Visser*, it was held that *"An athlete must establish how the prohibited substance has entered his/her system ..... To establish the origin of the prohibited substance, it is not sufficient for an athlete to merely protest his/her innocence"*. *The standard of proof is the balance of probabilities, i.e., an athlete has to show that the occurrence of the circumstances on which s/he rely is more probable than their*

*non-occurrence.... the athlete should establish a lack of intention with other robust evidence, such as the possibility that the prohibited substance came from a specific product, a credible testimony, or the implausibility of the scenario that the athlete had intentionally used prohibited substances”.*

- 18 It is for the Athlete to establish the absence of intent to administer the banned substance and here the Athlete failed to prove the lack of intent.

### **NO FAULT, SIGNIFICANT FAULT OR NEGLIGENCE**

- 19 As per the ADR - *“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 relationship to the anti-doping rule violation. Except in the case of a Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system”.*

- 20 It is clear from the above that in order for the Athlete to benefit from the application of *No Significant Fault or Negligence*, they must also establish how the Prohibited Substance entered their system. The Athlete has not established the source of the Prohibited Substance and therefore cannot benefit from a reduction in terms of *No Significant Fault or Negligence*.

- 21 In terms of Article 10.2 of the ADR:

*“The period of Ineligibility for a violation of Article 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Article 10.5, 10.6 or 10.7:*

*10.2.1 The period of Ineligibility, subject to Article 10.2.4, shall be four (4) years where:*

*10.2.1.1 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.*

22 In order for the Athlete to be eligible for any reduction in the otherwise applicable Period of *Ineligibility*, she must first prove that (1) there was no intention in her *Use* of the Prohibited Substances to reduce the base sanction from 4-years to 2-years, and then only if that is proved, could she (2) proclaim the application of Article.

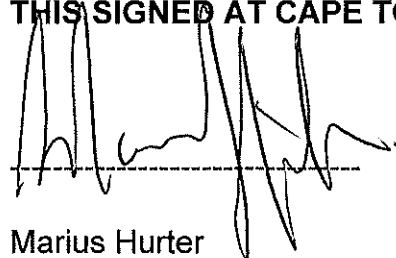
### **SANCTION**

23 The panel is comfortably satisfied that the Athlete is in breach of Art 2.1 (presence) and Article 2.2 (use) of the ADR and that no evidence was produced by the Athlete to consider a reduction in term. It is the Athlete's personal duty to ensure that no *Prohibited Substances* enters her body and that no *Prohibited Method* is used

24 In accordance with Article 10.2.1 of the ADR, it is decided that the Athlete will serve a 4 (four) year period of ineligibility. Having been provisionally suspended on 18 January 2023, the panel took into consideration the term already served and the 4 (four) year period of ineligibility will be served from 18 January 2023 until 17 January 2027 midnight.

25 Further, that the results of the event on 25 September 2022 and any other events the Athlete participated in since this date, be disqualified along with the return of any medals and prize money awarded as per Article 10.1 and Article 10.10 of the ADR.

**THIS SIGNED AT CAPE TOWN ON 4 JULY 2023.**

A handwritten signature in black ink, appearing to read 'Marius Hurter', is written over a horizontal dashed line. The signature is stylized with several vertical strokes.

Marius Hurter

Chairperson