Arbitration CAS 2021/ADD/25 United World Wrestling (UWW) v. Angus Patrick Arthur, award of 25 November 2021

Panel: Mrs Carol Roberts (Canada), Sole Arbitrator

Wrestling
Doping (dehydrochloromethyltestosterone (DHCMT))
Delay of notification of ADRV and athlete's defence rights
Responsibility to clearly designate respondent(s)

1. **Amongst others in light of the long limitation period provided by the WADA Code between the date of an alleged anti-doping rule violation (ADRV) and an action being commenced, delayed notification of an ADRV does not hinder an athlete's defence rights. Also, a delay in the performance of *e.g.* sample analysis caused by unforeseeable circumstances (*e.g.* closure of laboratory due to pandemic as well as other measures taken to address the pandemic) may constitute an excusable delay.**

2. **Under Article A13 of the CAS ADD Rules, a claimant is responsible to clearly designate *"the name and full address of the Respondent(s)"* in the Request for Arbitration. Such provision is in line with Article 221 (1) of the Swiss Code of Civil Procedure which requires a claimant to specify the parties to the proceedings in its Request for Arbitration or Statement of Claim. A CAS panel may not impose any sanctions or similar on an entity that has not been duly designated as party to the proceedings.**

I. PARTIES

1. United World Wrestling ("UWW") is the world governing body of the sport of Wrestling, having its registered offices in Corsier-sur-Vevey, Switzerland.

2. As a signatory to the World Anti-Doping Code, UWW has enacted the UWW Anti-Doping Rules ("UWW ADR"). UWW has delegated the results management and subsequent prosecution of anti-doping rule violations ("ADRV") to the International Testing Agency ("ITA").

3. Mr. Angus Patrick Arthur (the "Athlete") is a 25-year old Jamaican wrestler who is considered an 'international-level athlete' within the meaning of the UWW ADR and holds a UWW licence. The Athlete has competed in international events since at least 2013.

4. The Jamaican Wrestling Federation ("JWF") is the Athlete's National Federation and is entitled to participate in the hearing as an observer pursuant to Article 8.1.4 of the UWW ADR.

II. FACTUAL BACKGROUND

5. Below is a summary of the relevant facts and allegations based on the written submissions and the evidence presented by UWW in this procedure.

6. Additional facts and allegations found in the written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by UWW in the present proceedings, she has only referred to the submissions and evidence necessary to explain her reasoning.

7. On 8 March 2020, the Athlete competed in the 92k Senior category at the Freestyle 2020 Pan American Championships (the "Competition") and won the gold medal.

8. As part of the anti-doping control programme at the Competition, the Athlete provided a urine sample (sample no. 4520364) (the "Sample"). In his Doping Control Form ("DCF") the Athlete declared that he had taken "Amino Acids, B Complex Vitamins, Creatine, Protein".

9. The Sample was analysed at the World Anti-Doping Agency ("WADA") accredited laboratory in Montreal, Canada (the "Laboratory").

10. Between 13 and 15 March 2020, the Athlete participated in the Freestyle 86k Olympic Qualification Tournament, where he ranked 5th.

11. On 5 June 2020, the Laboratory notified UWW that the analysis of the Athlete's sample revealed the presence of dehydrochloromethyl-testosterone metabolite at an estimated concentration of 5 pg/ml.

12. Dehydrochloromethyl-testosterone is prohibited by WADA and UWW at all times and is classified as a Non-Specified Substance belonging to Class S1.1 (Exogenous Anabolic Androgenic Steroids) of the 2020 and 2021 WADA prohibited list.

13. According to Article 2.1 and/or Article 2.3 of the UWW ADR, the presence of a Prohibited Substance and/or the use or attempted use of the prohibited substance resulted in an adverse analytical finding ("AAF").

14. UWW reviewed the AAF and confirmed *inter alia* that the Athlete did not possess a Therapeutic Use Exemption for the relevant substance and that no apparent departures from the International Standard for Testing and Investigations or the International Standard for Laboratories ("ISL") could undermine the validity of the AAF.

15. On 18 June 2020, UWW notified the Athlete of the AAF and in accordance with Article 7.9.1 4 of the UWW Anti-Doping rules, informed him that it would bring the AAF forward as an apparent anti-doping rule violation ("ADRV") pursuant to Articles 2.1 and/or 2.2 of the UWW ADR. The Athlete was notified that he was provisionally suspended from national and international events with immediate effect, and all related activity until the matter was resolved.

16. UWW also notified the Athlete of his right to request a Provisional Hearing to challenge the provisional suspension, or an expedited hearing under Articles 7.9.3 and 8 of the UWW ADR. He was further asked whether he accepted the AAF, or alternatively, whether he wanted to proceed with the opening of the B-Sample and analysis. He was asked to notify the UWW of his request to open the B-Sample no later than 2 July 2020, failing which the UWW would deem that he had waived his right to have the B-Sample analysed.

17. UWW outlined a number of provisions of the UWW ADR to the Athlete's attention, including Article 10.6.1 (Substantial Assistance), 10.6.3 (Prompt Admission) and 10.10.2 (Timely Admission).

18. Finally, UWW invited the Athlete to provide it with any explanation he might have regarding the presence of the prohibited substance in his sample and/or his use of the prohibited substance no later than 2 July 2020.

19. The Athlete was asked to state his decision regarding his rights by way of completion of an "Athlete Rights Form" which was attached to the letter as an Appendix, again no later than 2 July 2020.

20. On the same date, 18 June 2020, UWW reported the Athlete's AAF to the Jamaican Wrestling Federation, noting that the Athlete's response was required no later than 2 July 2020.

21. On 1 July 2020, the Athlete replied to the AAF notification by denying having ever taken, been supplied or advised to take any performance-enhancing drug, and by "formally appealing this ruling".

22. The Athlete requested the analysis of the B-Sample and a copy of the laboratory documentation package ("LDP"), indicating that he would not be attending the analysis. He further indicated that he would not be assisted by a representative.

23. The Athlete also provided a list of all the supplements, prescriptions and medications he asserted he had taken, to his knowledge, in the last year. He explained that, at the end of February, he purchased a Vitamin supplement "Genius Consciousness – Super Nootropic Brain Booster Supplement", which he said that he returned after one use due to his distaste for the flavour (watermelon).

24. On 2 July 2020, the JWF also responded to the AAF notification indicating that the Athlete wished to formally appeal the AAF, and that he requested the B-Sample analysis.

25. On 3 July 2020, the Athlete was informed of the costs of the B-Sample counter analysis and the LDP and invited to confirm his request for the B-Sample analysis and the LDP. He was informed that if the B-Sample analysis confirmed the results of the A-Sample, the B-Sample analysis would be at his expense. The Athlete was also informed that if he did not attend the B-Sample analysis in person or send a representative, an independent witness would be appointed pursuant to the ISL.

26. On 8 July 2020, the Athlete confirmed his request for the LDP and waived the B-Sample counter-analysis. The Athlete was provided with the LDP on 9 September 2020.

27. On 22 October 2020, UWW informed the Athlete that there was sufficient proof of an AAF and that it would be bringing it forward as an ADRV ("Notice of Charge").

28. UWW further informed the Athlete that, based on cursory research, the products listed by the Athlete did not list dehydrochloromethyl-testosterone as an ingredient, nor was there any information linking the identified products to other AAFs.

29. Consequently, UWW informed the Athlete that there were no grounds to find that he had discharged his burden of proof in terms of demonstrating a lack of intent for the purposes of Article 10.2.3 of the UWW ADR. UWW informed the Athlete that it was willing to expedite the proceedings by concluding a sanctioning agreement.

30. On 4 November 2020, the Athlete repeated his denial that he had intentionally used any doping substances and re-stated that he did not know how dehydrochloromethyl-testosterone had entered his system.

31. Additionally, the Athlete claimed that due to the COVID-19 pandemic, he was prevented from entering Canada to "contest the findings where the sample was taken" and was unable to return to Jamaica to meet with anyone without being quarantined for 14 days. He asserted that the Jamaican governing bodies were not providing him with support and asked for "a mediator or arbitration" so he could "prove [his] innocence". The Athlete sought "the right to a fair appeal".

32. On 30 November 2020, the Athlete, his father, his coach and UWW participated in a telephone conversation to discuss the anti-doping framework and applicable rules. The Athlete indicated he would submit further information and explanation, and on 14 December 2020, UWW granted him an extension of time to submit additional information, along with corroborating evidence, that could explain the AAF.

33. On 18 December 2020, the Athlete sought a further extension of time, which UWW granted, until 8 January 2021.

34. On 5 February 2021, the Athlete indicated that he had not received any information regarding his appeal and sought a date for "a meeting". Given that it appeared there had been some misunderstanding of the process, UWW granted the Athlete a final deadline of 17 February 2021 to submit any additional information regarding the AAF.

35. On 18 February 2021, the Athlete submitted further explanations regarding his AAF, including questioning why he was not given the results of the test immediately and why he was permitted to compete 7 days following the test. The Athlete also stated that, while he *"did not commit this violation"* he did not have the funds to pay for legal assistance and his federation was *"inadequate"*. The Athlete proposed a *"plea agreement"* given that he had already been *"punished for a year already"*. The Athlete asserted that, because the testing was not done in a timely fashion, he was unable to properly ascertain the source of the AAF.

36. On 18 March 2021, UWW informed the Athlete that it considered that his rights had been respected, that there was no applicable reduction to the period of ineligibility and that the consequences proposed on 22 October 2020 would apply. The Athlete was asked to either agree to the proposed consequences, or to expressly refuse them and request that the matter be referred to CAS Anti-Doping Division (CAS ADD) for adjudication.

37. On 20 March 2021, the Athlete confirmed his intention to appeal and on 24 March 2021, UWW invited the Athlete to return a signed copy of the Disciplinary Proceeding Agreement, in which the parties agreed to submit the dispute to CAS.

38. On 29 March 2021, the Athlete communicated that he remained *"curious"* and asked if there was still a possibility to conduct the B-Sample counter-analysis. UWW informed the Athlete that was no longer possible given that he had waived the B-Sample opening and analysis on 8 July 2020.

39. On 10 April 2021, the Athlete returned a signed copy of the Disciplinary Proceeding Agreement, confirming his desire to have the matter adjudicated by the CAS ADD.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

40. On 16 July 2021, UWW filed a Request for Arbitration with the Anti-Doping Division of the Court of Arbitration for Sport (the "ADD") in accordance with Article A13 of the Arbitration Rules of the ADD (the "ADD Rules").

41. In its Request for Arbitration, and in accordance with Article A16 of the ADD Rules, UWW requested that this procedure be referred to a Sole Arbitrator appointed by the President of the CAS ADD.

42. On 18 July 2021, the CAS ADD wrote to the Athlete informing him of the Request for Arbitration. The CAS ADD advised the Athlete that the deadline for submitting his Answer to the Request for Arbitration was 12 August 2021.

43. On 20 July 2021, the CAS ADD, on behalf of the President of the ADD, confirmed the appointment of Ms. Carol Roberts, Attorney-at-Law in Vancouver, Canada, as Sole Arbitrator in accordance with Article A16 of the ADD Rules.

44. On 16 August 2021, the CAS ADD confirmed that the Respondent did not file his Answer in accordance with Article A14 of the ADD Rules. In this same correspondence, the CAS ADD, on behalf of the Sole Arbitrator, invited the parties to state, no later than 19 August 2021, whether they requested a hearing. The CAS ADD counsel advised the parties that a party's silence would be considered confirmation that no hearing was needed and that the Sole Arbitrator could proceed with the issuance of an award on the written materials.

45. On 19 August 2021, the Athlete sought an extension of time to respond, stating that he was in the process of obtaining legal representation.

46. On 23 August 2021, the CAS ADD informed the Athlete that his request for an extension of time was manifestly late – that it should have been filed before the expiry of the initial time limit pursuant to Article A7 (2) of the ADD Rules – and therefore inadmissible unless UWW consented to an extension of time.

47. On 25 August 2021, UWW objected to the request, primarily on the basis of the Athlete's conduct during the results management proceedings.

48. On 27 August 2021, the Sole Arbitrator denied the Athlete's late request for an extension of time in which to make submissions.

49. The Sole Arbitrator noted the procedural history to date, including the numerous extensions of time granted to the Athlete by UWW to obtain representation and to provide information or evidence regarding his AAF. The Sole Arbitrator noted Article A7 of the ADD Rules required that any request for an extension of time was required to be submitted before the initial deadline had elapsed.

50. Finally, the Sole Arbitrator noted that the Athlete had been notified of the ADRV on 18 June 2020 and had well over one year to secure legal representation. The Sole Arbitrator further noted that the Athlete's request for an extension of time was open ended and contained no explanation of his efforts thus far to secure legal representation.

51. The Sole Arbitrator determined that she was sufficiently well informed to render a decision without a hearing.

52. On 13 October 2021, UWW returned a signed copy of the Order of Procedure, while the Athlete failed to do so within the granted time limit.

IV. SUBMISSIONS OF THE PARTIES

53. UWW's submissions may be summarised as follows:

- Dehydrochloromethyl-testosterone metabolite, a Prohibited Substance, was found in the Athlete's A-Sample. This substance belongs to Class S1.1 (Exogenous Anabolic Androgenic Steroids) of the 2020 and 2021 WADA Prohibited List and adopted by UWW.

- The Athlete waived his right to the analysis of the B-Sample.

- In accordance with Article 2.1.2 of the UWW ADR, an ADRV is established when the presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A-Sample where, as is the case here, the Athlete waived the analysis of his B-Sample and the B-Sample is not analyzed.

- The Athlete has not challenged the validity of the AAF at any point.

- In the absence of any evidence demonstrating his lack of intent, the Athlete is subject to a period of four years of ineligibility.

- All competitive results obtained by the Athlete after the date of sample collection (*i.e.* after 8 March 2020) including his results at the Competition, until the date of provisional suspension (*i.e.* until 18 June 2020) shall be disqualified, with all resulting consequences.

54. In its Request for Arbitration, UWW requested the following relief:

    1) *[The Athlete] is found to have committed an anti-doping rule violation of Article 2.1 of the UWW Anti-Doping Rules.*

    2) *[The Athlete] is sanctioned with a period of ineligibility of 4 years.*

    3) *The period of ineligibility commences on 18 June 2020 and will be in effect until 17 June 2024.*

    4) *All competitive results of [the Athlete] from the date of sample collection (i.e. from 8 March 2020) until 18 June 2020 are disqualified with all resulting Consequences, including forfeiture of any medals, points, and prizes.*

    5) *[The Athlete] and the Jamaica Wrestling Federation are ordered to jointly and severally reimburse all the costs associated with [the Athlete's] Anti-Doping Rule Violation.*

    6) *The Jamaica Wrestling Federation is fined CHF 20,000 as per Article 12.3 of the UWW ADR.*

55. Neither the Athlete, nor the JWF filed an Answer or provided a defence at the proceedings before CAS.

V. JURISDICTION

56. Article A2 of the ADD Rules provides as follows:

    CAS ADD shall be the first-instance authority to conduct proceedings and issue decisions when an alleged anti-doping rule violation has been filed with it and for imposition of any sanctions resulting from a finding that an anti-doping rule violation has occurred. CAS ADD has jurisdiction to rule as a first-instance authority on behalf of any sports entity which has formally delegated its powers to CAS ADD to conduct anti-doping proceedings and impose applicable sanctions.

    These Rules apply whenever a case is filed with CAS ADD. Such filing may arise by reason of an arbitration clause in the Anti-Doping Rules of a sports entity, by contract or by specific agreement.

    These Rules apply only to the resolution by first instance arbitration of alleged anti-doping rule violations filed with CAS ADD. They neither apply with respect to appeals against any other decision rendered by an entity referred to in this Article nor against any decision rendered by CAS ADD.

    Decisions rendered by CAS ADD shall be applied and recognized in accordance with the WADC.

CAS ADD shall also have jurisdiction in case of alleged doping violations linked with any re-analysis of samples.

57. Article 8.1 of the 2021 UWW ADR, which governs the procedural aspects of this proceeding, provides that the CAS ADD has jurisdiction to adjudicate matters concerning the assertion of ADRVs:

> *8.1.2 When UWW sends a notice to an Athlete or other Person notifying them of a potential anti-doping rule violation, and the Athlete or other Person does not waive a hearing in accordance with Article 8.3.1 or Article 8.3.2, then the case shall be referred to CAS ADD for hearing and adjudication, which shall be conducted in accordance with its procedural rules and the principles described in Articles 8 and 9 of the International Standards for Results Management.*

58. The Athlete returned a signed copy of the Disciplinary Proceeding Agreement to UWW, expressly agreeing to have the CAS ADD decide this matter.

59. No party has otherwise objected to the jurisdiction of the CAS ADD.

60. In consideration of the foregoing, the Sole Arbitrator confirms the jurisdiction of the CAS ADD to decide this matter.

VI. APPLICABLE LAW

61. Article A20 of the ADD Rules provides as follows:

> *The Panel shall decide the dispute in in accordance with the WADC and with the applicable ADR or with the laws of a particular jurisdiction chosen by agreement of the parties or, in the absence of such a choice, according to Swiss law.*

62. The 2015 UWW ADR was in effect at the time of the AAF (that is, 8 March 2020). The UWW ADR applies, without limitation, to all athletes who are members of UWW. As the Athlete is a member of UWW and holds a UWW licence number, he is bound by the UWW ADR.

63. Similarly, as a member of UWW, the JWF is deemed, as a condition of its affiliation to UWW, to be bound by the UWW ADR.

64. No party objected to the application of the UWW ADR.

65. The Sole Arbitrator, therefore, confirms that the UWW ADR applies to this procedure.

VII. MERITS

A. The Anti-Doping Rule Violation

66. As mentioned above, the Prohibited Substance belonging to Class S1.1 of the 2020 and 2021 UWW ADR Prohibited List (exogenous anabolic androgenic steroids) was found in the Athlete's A-Sample.

67. The Sole Arbitrator is satisfied that the Athlete was aware of his right to have his B-Sample tested as well as the consequences if he did not. While the Sole Arbitrator appreciates the Athlete was concerned about the costs of the B-Sample analysis as well as complications posed by travel restrictions due to the COVID-19 pandemic, he did not seek to delay the B-Sample analysis so that he could personally attend. The Sole Arbitrator is satisfied that the Athlete was also aware that if he did not attend the proceedings or send a representative who did not face the same travel restrictions, an independent witness would be appointed.

68. The Athlete ultimately signed the "Athlete Rights Form" and expressly waived his right to the analysis of the B-Sample. He asked for, and received, the LDP.

69. The Sole Arbitrator finds that the Athlete's rights were respected.

Did the Athlete commit an ADRV?

70. Article 3.1 of the UWW ADR provides that UWW has the burden of establishing, to the comfortable satisfaction of the Panel, an ADRV. Once an ADRV has been established by UWW, the burden then shifts to the Athlete to demonstrate, on a balance of probabilities, that the ADRV was not intentional.

71. Article 2 of the UWW ADR provides that the presence of a prohibited substance or its metabolites constitutes an ADRV:

> ***2.1 Presence of a Prohibited substance or its Metabolites or Markers in an Athlete's Sample***
>
> *2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.*

72. Sufficient proof of an anti-doping violation under Article 2.1.2 of UWW ADR is established by the presence of a Prohibited Substance or its metabolites or markers in an Athlete's Sample *"… where the Athlete waives analysis of the B Sample and the B Sample is not analysed …"*.

73. The Sole Arbitrator finds that the presence of dehydrochloromethyl-testosterone metabolite in the Athlete's A-Sample is sufficient proof of an ADRV.

74. Accordingly, the Sole Arbitrator finds that the Athlete committed an anti-doping rule violation under Article 2.1 of the UWW ADR.

B. The Applicable Sanction

75. Under Article 10.2 of the UWW ADR, the period of ineligibility imposed for an ADRV for a non-specified substance is four years, unless the Athlete can establish that the ADRV was not intentional:

> ***10.2 Ineligibility for Presence, Use, or Attempted Use, or Possession of a Prohibited substance or Prohibited Method***
>
> *The period of ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5 or 10.6:*
>
> *10.2.1 The period of ineligibility shall be four years where:*
>
> *10.2.1.1 The anti-doping rule violations does not involve a Specified substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional ….*
>
> *10.2.2 If Article 10.2.1 does not apply, the period of ineligibility shall be two years.*
>
> *10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those athletes who cheat. The term therefore requires that the Athlete or other person engaged in conduct which he or she 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 ….*

76. Where an Athlete is able to establish No Fault or Negligence, then the otherwise applicable period of ineligibility can be eliminated. (Article 10.4)

77. The UWW ADR defines "No Fault or Negligence" as:

> *The Athlete or other Person's establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.*

78. The Athlete has not made any submissions with respect to the length of the period of ineligibility. He has provided no evidence or made any submissions that the ADRV was not intentional, as that term is defined in Article 10.2.3. The Sole Arbitrator has nevertheless considered the Athlete's submissions to UWW regarding his ADRV.

79. The Athlete denied taking any, been supplied or advised to take any performing enhancing substances. He asserted that none of the nutritional substances he used at the time of the sample collection contained banned substances and that the passage of time between the date of sample collection (8 March 2020) and the reporting of the AAF (18 June 2020) prevented him from conducting his own investigation into the cause of the AAF.

80. There is no question that the COVID 19 pandemic, which resulted in, among other things, travel restrictions beginning shortly after the Competition in March 2020, had an impact on the normal course of business, including communicating laboratory results. The UWW says, which is accepted by the Sole Arbitrator, that the WADA laboratory was compelled to shut down by government measures to address the pandemic shortly after receiving the Athlete's sample.

81. Article 5.3.5.2.5 of the ISL requires a WADA-accredited laboratory to report the results of the A-Sample within 15 working days of the receipt of the sample. Due to the pandemic and measures taken to address it, the laboratory's analysis was delayed by about three months. The pandemic was unforeseen and, in the Sole Arbitrator's view, the forced closure of the laboratory constitutes an excusable delay in delivering the A-Sample analysis.

82. The Athlete did not argue that the delay had any impact on the analysis of his sample.

83. CAS decisions have consistently determined that delayed notification of an ADRV does not hinder an Athlete's defence rights:

> *143. The Athlete argues that as a result of the passage of time of over seven and a half years from sample collection to re-test, the Athlete's ability to defend this case, such as recalling and testing products taken by him and finding the source of MHA, was significantly affected ….*
>
> *144. The Athlete argues that in the present case the delay on the part of the IOC of nearly eight (8) years in identifying the AAF was avoidable. This resulted according to the Athlete in manifest disregard to his right to a fair trial and principle of equal treatment since he is now not in a position to answer questions regarding the source of the substance or any other matters which may assist him in addressing the charge.*
>
> *145. The Panel is not persuaded by this argument. The WADA Code 2004 provided for a limitation period of eight years between the date of an alleged violation and an action being commenced ….*
>
> …
>
> *147. The Panel can also not accept the Athlete's arguments regarding the alleged prejudice he suffered due to the "delay", claiming difficulty to gather evidence including the possible source of the MHA. The Panel highlights that these difficulties are inherent to an application of a long statute of limitation period …* (CAS 2017/A/4984).

84. The Sole Arbitrator further notes that the Athlete presented no evidence about his attempts to investigate possible sources of contamination of his nutritional substances or other reasons he would have tested positive. It is insufficient to simply assert prejudice - it must be established by evidence. Furthermore, it is insufficient for an athlete to speculate as to the source of the prohibited substance (see CAS 2016/A/4834).

85. The burden is on an athlete to identify the source of the AAF. The Sole Arbitrator notes that, in order to assist the Athlete, UWW conducted cursory research based on the list of supplements and medications identified by the Athlete and found that none of them appeared to contain the prohibited substance and none had been previously linked to AAFs for dehydrochloromethyl-testosterone. In addition, UWW says that the manufacturers of the "Extend BCCA's watermelon flavour" and the ingredient "AstraGin" contained in "Genius Consciousness Super Nootropic Awakening Formula, watermelon flavour" have obtained certification from Informed-Sport, Informed-Choice and/or NSF certified for Sport for related products.

86. The Sole Arbitrator finds that the Athlete has failed to establish the source of the prohibited substance found in his sample and has failed to establish a lack of intention. Consequently, the ADRV is deemed intentional. Pursuant to Article 10.2.1, the period of ineligibility to be imposed is four years.

1. Period of ineligibility

87. Pursuant to Article 10.11 of the UWW, the period of ineligibility is to commence on the date of this Award. Where there have been substantial delays in the hearing process or other aspects of the doping control which are not attributable to the Athlete, the period of ineligibility may start earlier.

88. While there was a delay in the testing of the sample due to the pandemic, the Sole Arbitrator is not able to find any basis to depart from the general rule. The delay in the testing was not substantial, and was a result of measures taken in response to the pandemic. The delays in the hearing were, in the Sole Arbitrator's view, attributable to the Athlete. The Athlete sought, and was granted, many extensions of time to submit evidence or information, changed his mind about the analysis of the B-Sample and appeared to "revisit" his decision about proceeding to CAS.

89. Pursuant to Article 10.11.3.1, the Athlete is to receive credit for any period of provisional suspension already served. The Athlete has been provisionally suspended since 18 June 2020. Accordingly, the four-year period of ineligibility shall commence as of 18 June 2020.

90. Further, pursuant to Articles 8 and 9 of the UWW ADR, all competitive results of the Athlete after 8 March 2020 until the date of the provisional suspension are disqualified, including his results at the Freestyle 2020 Pan American Championships. The Athlete is directed to return his gold medal and to forfeit any diplomas, points and prizes awarded to him (if any).

2. Sanction on the Jamaican Wrestling Federation

91. The Sole Arbitrator notes that, in its prayers for reliefs, UWW requests, *inter alia*, the following:

> *6. The Jamaica Wrestling Federation is fined CHF 20,000 as per Article 12.3 of the UWW ADR.*

92. Article 12.3 of the UWW ADR reads as follows:

Article 12 Sanctions and Costs Assessed Against Sporting Bodies

12.2 National Federations shall be obligated to reimburse UNITED WORLD WRESTLING for all costs (including but not limited to laboratory fees, hearing expenses and travel) related to a violation of these Anti-Doping Rules committed by an Athlete or other Person affiliated with that National Federation.

12.3 If an anti-doping rule violation is committed by an Athlete during an official competition on the UNITED WORLD WRESTLING calendar, a 20.000 Swiss Francs fine will be imposed on the National Federation. A 20.000 Swiss Francs fine will also be imposed on the National Federation for any anti-doping rule violation committed by an Athlete included in the registered testing pool.

93. Although the prayer for relief mentioned at paragraph 91 of this Award is directed at JWF, the Sole Arbitrator notes that UWW did not name JWF as a party. In its 16 July 2021 petition, UWW clearly identifies Mr Angus Patrick Arthur as a party, *i.e.* the Respondent in this matter, while identifying the JWF as *"the Athlete's National Federation and that the JWF is entitled to assist to the hearing as an observer in accordance with Article 8.1.4 of the UWW ADR"*.

94. Under Article A13 of the CAS ADD Rules, the Sole Arbitrator notes that the Claimant has the responsibility to clearly designate *"the name and full address of the Respondent(s)"* in the request for arbitration – *i.e.* in the petition in this matter. As determined by the Sole Arbitrator in *CAS 2018/A/5621*, such a provision is in line with Article 221 (1) of the Swiss Code of Civil Procedure which requires a claimant to specify the parties to the proceedings in its request for arbitration or statement of claim.

95. As UWW identified JWF as a mere observer rather than a party, *i.e.* a respondent, JWF did not have the same procedural rights as a party, and indeed, did not participate in these proceedings. Therefore, the Sole Arbitrator considers that she is not in a position to impose any sanction to an entity which was not able to respond to the claim

96. For the reasons above, UWW's request to impose a CHF 20,000 fine on JWF is rejected.

VIII. COSTS

(…).

IX. APPEAL

103. Pursuant to Article A21 of the ADD Rules, this award may be appealed to the CAS Appeals Arbitration Division within 21 days from receipt of the notification of the final award with reasons in accordance with Articles R47 *et seq.* of the Code of Sports-related Arbitration, applicable to appeals procedures.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The request for arbitration filed by United World Wrestling on 16 July 2021 against Angus Patrick Arthur is partially upheld.

2. Angus Patrick Arthur committed an anti-doping rule violation in accordance with the United World Wrestling Anti-Doping Rules.

3. Angus Patrick Arthur is sanctioned with a period of ineligibility of four (4) years.

4. The period of ineligibility shall commence on 18 June 2020, which is the start date of the provisional suspension imposed on Angus Patrick Arthur.

5. All competitive results obtained by Angus Patrick Arthur from the date of sample collection (8 March 2020) until 18 June 2020 are disqualified with all resulting consequences. The Athlete is ordered to return his gold medal and, if applicable, forfeit any other medals, points and prizes.

(…)

8. All other motions or prayers for relief are dismissed.