



International Paralympic Committee
Anti-Doping Committee

In the matter of:

INTERNATIONAL PARALYMPIC COMMITTEE
(the *Applicant*)

Versus

Mr. Claudemar SANTIN
(the *Respondent*)

The case is heard in front of the Hearing Body comprised of:

Dr. Toni Pascual, Chairperson of the IPC Anti-Doping Committee; and
Mr. Joseph de Pencier, Dr. Matthias Strupler, Members of the IPC Anti-Doping
Committee (together with the Chairperson, the *Hearing Panel*)

Hearing conducted on 31 January 2012 at 14:00 CET via teleconference.

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Parties

1. The Applicant is the global governing body of the Paralympic Movement and, in particular, of the Paralympic Games. In addition, the IPC is the International Federation of several sports, including IPC Powerlifting. The IPC's registered offices are in Bonn, Germany.
2. The Respondent is a Brazilian athlete in the sport of IPC Powerlifting.

Communication

3. In accordance with Article 14.1.1 of the IPC Anti-Doping Code 2009 (the *Code*), the Respondent (and other relevant persons) shall be notified of a Sample that is brought forward as an Adverse Analytical Finding by the IPC through the relevant National Paralympic Committee (NPC).

Background

4. On 18 November 2011, the Respondent competed at the 2011 Parapan American Games in Guadalajara, Mexico (hereafter, the *Event*).
5. In accordance with Article 5 of the Code and as set out in the 2011 Parapan American Games Doping Control Guide (at pages 4 and 5), the IPC is responsible for the doping control programme of the Event (as defined in the Code).
6. After the Respondent completed his competition, he was requested to provide a sample for doping control for an in-competition test.
7. The Respondent provided a sample (sample number 1988381) (the *Sample*) and disclosed the use of Retenic as a medication and/or supplement used in the last seven days preceding the doping control test.
8. The Respondent complied with the request, provided a sample and signed the doping control form without adverse comment. By doing so, the Respondent indicated that he was satisfied with the sample collection procedures that had been followed in conducting the test. The Sample was sent for analysis to the WADA accredited laboratory in Los Angeles (UCLA Olympic Analytical Laboratory, the *Laboratory*).



9. On 07 December 2011, the Laboratory reported an adverse analytical finding to the IPC for the following substance: Tamoxifen and its metabolites 4-hydroxytamoxifen, N-desmethyltamoxifen. This substance is classified as a 'Specified Substance' in class S4. Hormone Antagonists and Modulators in the World Anti-Doping Agency (WADA) 2011 Prohibited List (the *Prohibited List*) and is prohibited both in-and out-of-competition.
10. On 08 December 2011, the IPC notified the Respondent via NPC Brazil of the adverse analytical finding in accordance with Article 7.2 of the Code. The Respondent was advised that he was provisionally suspended from the date of notification (08 December 2011) and that unless Articles 10.4 of the Code applies, the standard sanctions for a first-time violation would normally be:
- automatic disqualification of any competition results in connection with an in-competition test, including forfeiture of any medals, points and prizes obtained on the date of sample collection (18 November 2011);
 - disqualification of all competition results including forfeiture of any medals, points and prizes obtained subsequent to the sample collection date (18 November 2011);
 - an ineligibility period of two (2) years; and
 - a financial sanction of €1.500 (Article 10.11 and Chapter 1.2, Section 2, IPC Handbook ('Rules on the imposition of financial sanctions for anti-doping rule violations')).

The Respondent was also advised of his rights, including the right to request a B sample analysis and the laboratory documentation package.

11. The notification included a form titled "Letter of Decision" for the Respondent to complete and return to the IPC by no later than 13 December 2011 at 17:00 hours CET.
12. The Respondent returned the signed Letter of Decision to the IPC in a timely fashion. In the Letter of Decision, the Respondent stated that he:
- had no valid Therapeutic Use Exemption (*TUE*) justifying the presence of the Prohibited Substances found in his sample
 - challenged the consequences set out in the 'Notification of an Adverse Analytical Finding' and wished to be invited to a Hearing
 - accepted the provisional suspension; and
 - waived his right to request the B sample analysis



13. With the Letter of Decision, the Respondent submitted a letter explaining his need for the use of Tamoxifen. With the explanation, he also submitted medical reports signed by Dr. Waldemir Garcias Palhares, Prefeitura Municipal de Ubarana, and Dr. Sergio A.A. de Oliveira, Plastic Surgeon, for the use of Tamoxifeno for the treatment of mastalgia.
14. Upon receipt of the Letter of Decision and the supporting statements by the Respondent, the Respondent was informed on 19 January 2012 that a hearing would be scheduled to determine the outcome of his case.

The Hearing

15. The Hearing took place on 31 January 2012 via conference call, in accordance with Article 8.1.6 of the Code.
16. The IPC was represented in the case by:
 - Dr. Peter Van de Vliet, IPC Medical & Scientific Director
 - Ms. Vanessa Webb, IPC Anti-Doping Manager
17. Attending the Hearing on behalf of the Respondent were:
 - Claudemar Santin, the Respondent
 - Juliana Soares, NPC Brazil doping control manager
 - Cristiani Gomes, interpreter
18. Ms. Emilie Jones, IPC's legal adviser, attended the Hearing.
19. Mr. Jon Amos, Chairperson Sport Technical Committee, IPC Powerlifting, attended the Hearing as the representative of IPC Powerlifting and as an observer.
20. The following outline of the facts and parties' positions is illustrative only and may not comprise every piece of information or submission made by the parties. The Hearing Body has carefully considered all the evidence and submissions provided by the parties, even if there is no specific reference in this recommendation.
21. The Applicant's case is that the Respondent has violated Article 2.1 (Presence in Sample) of the Code. It asserts that there was no valid TUE and no departures from the Code that caused the adverse analytical finding. It also asserts that there are no circumstances that would justify the application of Code Article 10.5 (Exceptional Circumstances) to reduce the period of ineligibility.



22. The Respondent explained that the use of the prohibited substance was for health reasons and that he was advised by his personal doctor that the use of Tamoxifen would not improve his sport performance when he started competitive sport in 2005. For that reason, the Respondent did not disclose the use of Tamoxifen on the Doping Control Form. The Respondent declares that he has been using this medication for a long period of time.
23. The Respondent had competed at the 2007 Parapan American Games in Rio de Janeiro but was not selected for doping control. This was the first time that he had been subject to doping control.
24. The NPC Brazil representative explained that general anti-doping education was offered to athletes from Brazil prior to the 2011 Parapan American Games in Guadalajara, Mexico. All athletes were requested to complete a questionnaire listing the medications they were using. The Respondent disclosed the use of Retenic but did not report the use of Tamoxifen on the questionnaire, nor did he disclose the use of Tamoxifen to any of the support staff in the lead up to or during the competition.
25. The Respondent confirmed that he is not familiar with the TUE process.
26. Upon notification of the Adverse Analytical Finding the Respondent stopped using the medication. The Respondent regrets not having paid proper attention to educational initiatives that were offered to him.

Analysis

27. The principle of strict liability applies to anti-doping matters. An athlete is responsible for any Prohibited Substance found in his or her sample, and an Anti-Doping Rule Violation occurs whenever a Prohibited Substance is found in an athlete's sample (comment to Code Article 2.1.1.). The Athlete confirms that the use of the Prohibited Substance was found in his sample.
28. The Prohibited Substance found in the Respondent's sample is classified as Class S4. Hormone Antagonists and Modulators in the Prohibited List and is prohibited both in-and out-of-competition.
29. The Hearing Panel finds that the Respondent was negligent in his general anti-doping duties under Article 2 of the Code when different anti-doping education and awareness initiatives were provided over



time, and ample opportunities existed to disclose the use of a Prohibited Substance for health reasons. For that reason, the Hearing Panel is in view that there is no evidence to consider elimination or reduction of period of ineligibility for specified substances under specific circumstances as defined in Article 10.4 of the Code.

Recommendation to the IPC Governing Board

30. The IPC Anti-Doping Committee recommends the following to the IPC Governing Board:
 - a. Pursuant to Article 9 of the Code, the Respondent's individual results obtained at the 2011 Parapan American Games and at any other event from the date of 18 November 2011 onwards should be automatically disqualified, including forfeiture of any medals, points and prizes won;
 - b. Pursuant to Article 10.2 of the Code, a two-year (2-year) period of ineligibility should be imposed on the Respondent.
 - c. Pursuant to Article 10.9.3 of the Code, the Respondent shall receive credit for the period of provisional suspension and should therefore be declared ineligible from 08 December 2011 (date of notification) until 07 December 2013; and
 - d. Pursuant to Article 10.11 of the Code and the IPC Handbook, Section 2, Chapter 1.2 ('Rules on the imposition of financial sanctions for anti-doping rule violations'), a financial sanction of €1.500,- should be imposed on the Respondent.
31. The IPC Anti-Doping Committee would further like to remind the Respondent of his status of Ineligibility as set forth in Article 10.10 of the Code and in Article 8 of the 'Rules on the imposition of financial sanctions for anti-doping rule violations'.

Appeal

32. The Respondent is reminded of the Appeal procedures in Article 13 of the IPC Anti-Doping Code.

Submitted to the IPC Governing Board as a recommendation from the IPC Anti-Doping Committee in accordance with Article 8.5.2 of the IPC Anti-Doping Code 2009.



On 13 February 2012 the IPC Governing Board reviewed the above document and accepted the recommendation of the IPC Anti-Doping Committee.

A handwritten signature in black ink, appearing to be "Xavier Gonzalez", is positioned above the printed name.

Mr. Xavier Gonzalez
Chief Executive Officer
International Paralympic Committee

cc. Kerwin Clarke, WADA Results Management
Toni Pascual, Chairperson IPC Anti-Doping Committee