

**THE ATP TOUR ANTI-DOPING TRIBUNAL
APPEAL OF DIEGO HIPPERDINGER**

OPINION

This appeal by Diego Hipperdinger {"Player"} was heard on 14 July 2004 via conference telephone call before an ATP Tour Anti-Doping Tribunal {"Tribunal"} consisting of Prof. Richard H. McLaren, Esq., Chair, Dr. Arturo Marti, technical scientific member and Dr. Gary Wadler, medical member.

The Player represented himself at the hearing. The ATP Tour {hereafter the "Tour" or the "ATP"} was represented by Stephen D. Busey, Esq., John MacLennan, Esq. Also present throughout the call were the Player, Mr. Richard Ings ATP Executive Vice-President Rules and Competition, the Chair's legal assistant Christopher Hawlik and an interpreter Mr. Vladamir Kobak.

BACKGROUND FACTS

1. The Player is a professional tennis player from Barcelona, Spain.
2. The ATP Tour is a not-for-profit membership organization composed of male professional tennis players and tournament organizations. The ATP sanctions tennis tournaments and provides league governance and support to its member tournaments and players. Pursuant to this role the ATP has adopted rules for the conduct of tournaments and players. The ATP Tour 2004 Official Rulebook {the "Rules"} is applicable to this case.
3. The Tennis Anti-Doping Program {"Anti-Doping Rules"} is set out within the Rules and are described at pages 87 through 122. The Anti-Doping Rules are designed to maintain the integrity of professional tennis and protect the health and rights of all tennis players. The Program includes (i) doping tests in and out of competition, (ii) the imposition of penalties for Doping Offenses, and (iii) support and assistance to players when applicable. The player and tournament members of the ATP support the Program.
4. On 6 February 2004 the Player signed the standard consent form required by

- Anti-Doping Rule B. 1. and Appendix Two for the 2004 season. By that form he acknowledged that he had received a copy of the Rules. He further acknowledged that he had an opportunity to review the Rules and agreed to be bound by all the provisions therein and to play by the Rules.
5. The Player provided a urine sample on 9 February 2004 at the ATP sanctioned tournament “Bellsouth Open” held in Vina del Mar, Chile (the “Tournament”). He did so pursuant to the Anti-Doping Rules.
 6. The urine sample was shipped from Chile to the Laboratoire de Controle du Dopage INRS-Institut Armand-Frappier, Montreal, Canada {“the Lab”}, an International Olympic Committee {“IOC”} accredited laboratory.
 7. The Lab analyzed the urine sample. The Lab reported to Mr. Sahlstrom of the International Doping Tests & Management {“IDTM”} who is the Anti-Doping Program Administrator {“APA”} under the ATP Anti-Doping Rules. The Player’s “A” specimen was tested at the Laboratory using GC-MS analysis screenings. Their analytical report on 27 February 2004 showed the presence of “cocaine and metabolites”, a prohibited S1 Stimulant. The Laboratory performed a confirmation test on the “B” specimen on 27 April 2004, which also showed the presence of “cocaine and metabolites”.
 8. Mr. Sahlstrom, representing the APA established a Review Board {“RB”} in accordance with the Anti-Doping Rules. The RB performed the reviews required by the Rules in respect of the “A” and “B” urine specimen analysis performed by the Lab. The RB unanimously determined in accordance with Rule J. 2. h. that the urine specimen should not be disqualified. The APA notified Mr. Ings that subject to Rule K dealing with Due Process the Player had committed a Doping Offense.
 9. Mr. Ings the official responsible for the ATP Anti-Doping Program notified the Player of the results of the RB findings. The Player elected to have a hearing before this Tribunal, as is his right by Rule K. 1. b.
 10. This Anti-Doping Tribunal {the “Tribunal”} was established pursuant to the Rules. Counsel for the ATP confirmed by signing Procedural Order No. 1 that they had no objection to the Tribunal’s composition or its jurisdiction to hear, determine and issue a decision in this appeal. The Player did not sign the Procedural Order. However, he complied with the deadline for filing his

written brief established therein. The Chairman deemed him to have signed the order.

11. On 11 June 2004, the Chairman of the Tribunal issued Procedural Order No. 1¹ detailing the process and procedure the case was to follow and by which it was to be heard. An issue arose with regard to a language barrier between the language of the proceedings and the language spoken by the Player. To circumvent this issue, the Chairman had all communications with the parties translated from English into Spanish to ensure the proceedings were understandable to the Player and thus fair to all parties.
12. Pursuant to Procedural Order No. 1, a pre-hearing conference telephone call occurred at 8:30 a.m. Eastern Daylight Time {EDT} on 26 June 2004. The purpose of that call was to discuss the procedure to be followed at the hearing. The Player did not participate in the meeting requiring the Chairman of the Tribunal to issue a letter to the Player indicating that the Tribunal will continue with or without the Player's participation. This letter² was issued in English on 28 June 2004.
13. On 30 June 2004 just two days before the scheduled hearing the Player advised that he wished to obtain a lawyer to assist him. The Chairman ordered an adjournment of the proceedings to enable the Player to consult a lawyer. On 2 July 2004 the Player advised that he could not afford to obtain a lawyer. As a consequence of these circumstances the Chairman issued Procedural Order No. 2, which is the Order, under which the Tribunal held the hearing in this matter.
14. The hearing was held within the 60-day guideline set out in Rule K. 1. g. (i). The hearing commenced at 1:00 p.m. EDT on 14 July 2004 by conference telephone as provided for in the Procedural Orders. The hearing concluded at approximately 3:30 p.m. EDT.
15. Pursuant to Procedural Order No. 1 and Rule K. 1. g. (ii), the Player provided a written statement, in Spanish, from himself on 11 June 2004. The Chairman had this document translated into English and filed that document

¹ After Procedural Order No. 1 was issued, the Chairman had the document translated into Spanish and sent a copy to the Player on 22 June 2004.

² A translated version was in the Player's possession on 29 June 2004.

with all parties in this proceeding.

16. Counsel for the ATP elected not to file an initial brief in this matter. They did file 7 exhibits with the Tribunal in advance of the hearing. Their evidence and arguments were presented at the hearing.
17. At the time of the hearing, the ATP called Dr. Christiane Ayotte to provide testimony pertaining to the laboratory analysis. Dr. Ayotte is in charge of the WADA accredited anti-doping laboratory in Montreal that analysed the Player's urine sample. She testified as to the procedures the Lab followed during the specimen analysis and the ultimate finding of the presence of cocaine and metabolites. Dr. Ayotte also testified that cocaine or the main metabolite of cocaine could be found in the urine of someone that snorted or smoked the processed drug or ingested coca leaves. During cross-examination by the Player, Dr. Ayotte indicated that the testing procedures do not reveal the method of ingestion because the test is to check for the presence of the drug regardless of the method of application. The Player and members of the Tribunal asked various questions to Dr. Ayotte. She was the only witness for the ATP.
18. The Player testified in his own defence at the hearing. He pleaded to the Tribunal that he is a man of character and integrity when it comes to his profession. He stated that he has a "*concept about life and about tennis*" that prevents him from breaching the rules by taking a performance-enhancing drug. He reiterated that the consumption of the tea prepared with coca leaves is common in parts of Argentina and Chile. His specific consumption of the tea was in order to avoid the symptoms associated with visiting and returning to cities of high altitude. He was suffering from headaches and a stomach ailment for which this tea was supposed to be an aid. He stated that he did not know ingesting the "*innocent herb*" would be considered against the rules. Counsel for the ATP questioned the Player about the symptoms he was experiencing from being at a high altitude along with his recollection of a conversation with Mr. Richard Ings. The Player described the upset stomach and headaches he experienced during the Tournament and recalled that he told Mr. Ings he had consumed the tea and chewed the leaves of a coca plant. Dr. Wadler of the Tribunal asked the Player if he knew it was coca leaves that he was chewing during the Tournament. The Player said that he did not know they were coca leaves that he was eating. When asked if he knew that sipping coca tea or eating coca leaves were a source of

cocaine he denied knowing this was the case. He was asked who recommended this remedy and what the effects were. He said that his friends recommended it and that he didn't feel any effect aside from the bitter taste.

19. Mr. Fabian Cusin provided testimony in support of the Player. Mr. Cusin is an acquaintance of the Player from Tucuman, Argentina. The Player, in his written submission, indicated that he consumed tea prepared with leaves from a coca plant with Mr. Cusin prior to giving his urine specimen at the Tournament. During the hearing, Mr. Cusin testified to the Tribunal that he was as surprised as the Player to find out that a Doping Offense had occurred. He was surprised mainly because the kind of tea they were ingesting is a practice that "is very normal and very common" in Tucuman. He recalled visiting a bar where the coca leaves were available at every table for anyone to consume. He also attested to the character and competitive nature of the Player. Counsel for the ATP questioned Mr. Cusin regarding the events leading up to the Tournament. He testified that the Player was given a bag of coca leaves to consume during his time at the Tournament in Vina Del Mar. Dr. Wadler of the Tribunal asked Mr. Cusin questions regarding his knowledge of the coca plant. He testified that he did not have any knowledge that cocaine came from coca leaves. He was also unaware of any other athletes from the area that may consume the leaves for medicinal purposes. Mr. Cusin testified that he was aware that cocaine was an illegal substance but did not know the coca leaves were a problem because they are so readily available in Argentina.

SUBMISSIONS of the PARTIES

Submissions by the Petitioner Player

20. The Player in his written statement submits that "*as to the possible ingestion of cocaine mentioned by the ATP representative*" that he denies having taken the substance but claims that during his stay with a friend prior to the tournament, he shared herbal tea prepared with the leafs from a coca plant. He alleges that the herbal tea prepared in this fashion would "*prevent and treat the sickness resulting from the altitude in the aforementioned geographic location.*" The Player submits that he was never notified of the contents or properties of the substances used in this tea until after he was informed of the alleged Doping Offense.

21. It is alleged that because the Player was not conscious of taking any Prohibited Substance and that there “*was not any athletic benefits in the development of my skill*”, the sanction should be minimally applied. The Player submits that because he depends on a minimal income and that due to his age, he is close to the end of his career so any disqualification or suspension would lead to his retirement and “*loss of my means to earn a living*”.

Submissions by the Respondent ATP

22. Counsel for the ATP submitted their arguments solely at the hearing. They submit that the Player committed a Doping Offense under Rule C.1.a. by having a Prohibited Substance in his body during competition in violation of the 2004 ATP Anti-Doping Rules. Under Rule C.2. a player is absolutely responsible for any Prohibited Substance found to be present within his body. They submit that the collection, chain of custody and the laboratory analysis of the sample are not in dispute and clearly identify a Doping Offense.
23. Counsel for the ATP submits that under Rule M.5. the Player is unable to mitigate the penalty they are seeking. Rule M.5. allows a lesser sanction to occur if the Player is able to establish he is without fault or without any significant fault. They argue that because the Player acknowledged consuming the tea and coca leaves during the days prior to, during and following the Tournament that he cannot say that he is without any fault at all. Therefore, a period of ineligibility of two years for a first offense for the presence of cocaine and metabolites is justified.
24. THE RELEVANT ANTI-DOPING RULES

A. Introduction

1. The purpose of the Tennis Anti-Doping Program (“the *Program*”) is to maintain the integrity of tennis and protect the health and rights of all tennis players.

2. The Program, which includes the appendices hereto, encompasses:
 - a. incorporation of the doping offenses identified in the World Anti-Doping Code (the “Code”) based on the List of ***Prohibited Substances*** and ***Prohibited Methods*** that is published and regularly updated by ***WADA***, as described in Article 4.1 of the Code (the “***Prohibited List***”);
 - b. ***Testing of Samples*** collected both ***In-Competition*** and ***Out-of-Competition***;
 - c. review by an independent ***Review Board*** of ***Adverse Analytical Findings*** and other evidence of possible offenses under this Program, to ensure that there is a case to answer before anyone is charged with commission of such an offense;
 - d. the hearing and determination of any such charges by an independent ***Anti-Doping Tribunal***, with the right to appeal from the decision of such tribunal to the Court of Arbitration for Sport in Lausanne, Switzerland; and
 - e. where it is found that a doping offense has been committed under the Program, imposition of ***Consequences*** of the nature and scope specified in the Code.

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B. Covered Players and Events

1. Any player who enters or participates in a

Competition, Event or activity organized, sanctioned or recognized by the ATP, or who is an ATP member or who has an ATP ranking (a “**Player**”) shall be bound by and shall comply with all of the provisions of this Program, including making himself available for **Testing** both **In-Competition and Out-of-Competition**. Further, for each calendar year all such players shall, as a condition to entering or participating in any event organized or sanctioned by the ATP, deliver to the ATP a signed consent in the form set out in Appendix 2.

2. Events recognized by the ATP for the purpose of this Program include (without limitation) Grand Slam tournaments, Davis Cup ties, the Olympic Tennis event, ATP tournaments, Challenger Series tournaments, Futures and Satellite Series Circuit tournaments, (“**Covered Events**”).

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4. It is the sole responsibility of each Player and each Player Support Personnel to acquaint himself or herself with all of the provisions of the Program.

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C. Doping Offenses

Doping is defined as the occurrence of one or more of the following (each, a “**Doping Offense**”):

1. **The presence of a Prohibited Substance or its Metabolites or Markers in a Player’s Specimen, unless the Player established that the presence is pursuant to a therapeutic use**

exemption granted in accordance with Article E.

- a. It is each Player's personal duty to ensure that no ***Prohibited Substance*** enters his body. A Player is responsible for any ***Prohibited Substance*** or its ***Metabolites*** or ***Markers*** found to be present in his Specimen. Accordingly, it is not necessary that intent, fault, negligence or knowing *Use* on the Player's part be demonstrated in order to establish a Doping Offense under Article C.1; nor is the ***Player's*** lack of intent, fault, negligence or knowledge a defence to a charge that a Doping Offense has been committed under Article C.1.

- b. Excepting those substances for which a quantitative reporting threshold is specifically identified in **the *Prohibited List***, the detected presence of any quantity of a ***Prohibited Substances*** or its ***Metabolites*** or ***Markers*** in a ***Player's*** Specimen shall constitute a Doping Offense under Article C.1, unless the ***Player*** established that such presence is pursuant to a therapeutic use exemption granted in accordance with Article E.

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K. Due Process

1. Commencing proceedings before the Anti-Doping Tribunal

- ...
- c. The ***Participant*** shall be entitled at any stage to admit that he has committed the Doping Offense(s) specified in the Notice and to accede to the

Consequences specified in the Notice. In such circumstances, a hearing before the *Anti-Doping Tribunal* shall not be required. Instead, the Chairman of the *Anti-Doping Tribunal* shall promptly issue a decision confirming the commission of the Doping Offense(s) specified in the Notice, and ordering the imposition of such *Consequences* (including, where this Program specifies a range of possible *Consequences*, specifying what the *Consequences* should be in that particular case). Where a range of possible *Consequences* is specified in the Program, written submissions may be made by or on behalf of the *Participant* in mitigation at the time of admission of the Doping Offense, and the Chairman of the *Anti-Doping Tribunal* shall be entitled to take those submissions, as well as any rebuttal submitted by the ATP, into account in determining what *Consequences* should apply.

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L. Automatic *Disqualification* of Individual Results

1. A Doping offense committed by a Player in connection with or arising out of an *In-Competition* test automatically leads to *Disqualification* of the individual result obtained by the Player involved in that *Competition* with all resulting consequences, including forfeiture of any medals, titles, computer raking points and prize money (without deduction for tax) obtained in that *Competition*.

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M. Sanctions on Individuals

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2. Imposition of Ineligibility for Prohibited Substances and Prohibited Methods

Except where the substance at issue is one of the specified substances identified in Article M.3, the period of *Ineligibility* imposed for a violation of Article C.1 (present of *Prohibited Substance* or its *Metabolites* or *Markers*), Article C.2 (*Use* or *Attempted Use of Prohibited Substance* or *Prohibited Method*) or Article C.6 (*Possession* of *Prohibited Substance* and/or *Prohibited Method(s)*) shall be:

First Offense: Two (2) years' *Ineligibility*.

Second Offense: Lifetime *Ineligibility*.

However, the **Participant** shall have the opportunity in each case, before a period of **Ineligibility** is imposed, to establish the basis for eliminating or reducing this sanction as provided in Article M.5.

7. Disqualification of Results in Competitions Subsequent To Sample Collection.

In addition to the automatic *Disqualification*, pursuant to Article L, of the results in the *Competition* that produced the positive *Sample*, all other competitive results obtained from the date a positive *Sample* was collected (*whether In-Competition* or *Out-of-Competition*) or other

Doping Offense occurred through to the date of commencement of any *Ineligibility* period shall, unless fairness requires otherwise, be Disqualified with all of the resulting consequences, including forfeiture of any medals, titles, computer ranking point and prize money (without deduction for tax).

8. Commencement of Consequences

Any *Consequences* set out in the decision of an *Anti-Doping Tribunal* shall come into force and effect on the date that the decision is issued, save that:

- a. For purposes of forfeiture of computer ranking points, the decision shall come into effect at midnight on the Sunday nearest to the date that the decision is issued.
- b. The *Anti-Doping Tribunal* shall have discretion, where fairness requires, to establish an installment plan for repayment of any prize money forfeiture pursuant to Articles L and/or M of this Program. For the avoidance of doubt, the schedule of payments pursuant to such plan may extend beyond any period of *Ineligibility* imposed upon the Player.
- c. The period of *Ineligibility* shall start on the date that the decision is issued, provided that:
 - (i) any period during which the Player demonstrates he has voluntarily foregone participation in Competitions shall be credited against the total period of *Ineligibility* to be served; and

- (ii) where required by fairness, such as in the case of delays in the hearing process or other aspects of Doping Control not attributable to the Player, the Anti-Doping Tribunal may start the period of *Ineligibility* at an earlier date commencing as early as the date of the *Sample* collection.

APPENDIX THREE

THE 2004 PROHIBITED LIST

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PROHIBITED SUBSTANCES

S1. STIMULANTS

The following stimulants are prohibited, including both their optical (D- and L-) isomers where relevant:

cocaine

...

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REASONS

- 25. The exhibits produced as evidence and the testimony of the Player at the hearing indicate that there is no dispute that the urine specimen was that of the Player. There is no dispute about the manner and method of taking the sample. There was no evidence challenging the chain of custody. The Lab analysis and the quantification of its analytical results are undisputed.
- 26. The Lab analysis found there was an adverse analytical result in that the analyzed urine revealed the presence of cocaine and metabolites thereof. Dr. Ayotte testified that the concentration in the "A" specimen was in the range of 300 ng/ml for Benzoyllecgonine the main metabolite of cocaine. She also testified that the sample contained cocaine itself. This latter

finding is unusual in that cocaine metabolises very quickly in the human body and is usually undetectable within 10 hours of administration. This finding by the Lab is consistent with the Player's testimony wherein he attests to drinking coca tea and chewing coca leaves on the Sunday prior to giving the urine sample on the Monday. Under the Anti-Doping Rules cocaine or its metabolites is listed in Appendix Three, *The 2004 Prohibited List*, in S1 as a prohibited stimulant. Therefore, the Tribunal finds that the Player had a Prohibited Substance in his specimen.

27. The Anti-Doping Rules state that "*it is not necessary that intent, fault, negligence or knowing Use on the Player's part be demonstrated in order to establish a Doping Offense*" under the Rule C.1.a. The Rule is one of strict liability; a principle well established in sports doping rules and a feature of the ATP Anti-Doping Rules in men's professional tennis for sometime as well as a keystone of the World Anti-Doping Code {"WADC"}. Therefore, the Tribunal finds that a Doping Offense is established.
28. The Player's specimen was given at a tennis in-competition test. Therefore, Rule L.1. requires the automatic disqualification of the result at the Tournament in Chile. The Tribunal makes such an order as is indicated in the Decision on the last page of this document.
29. The Doping Offense found under Rule C.1.a. is a first offense for the Player. Rule M.2. imposes a period of ineligibility of Two (2) years for such an offense. However, this period of ineligibility may in an individual case be eliminated or reduced under the Anti-Doping Rules if a finding of Exceptional Circumstances is found to exist.
30. There are two categories of situations that give rise to Exceptional Circumstances. The situation may be one of **No Fault or Negligence** by the Player for the Doping Offense. It is undisputed that this situation does not arise in the present case. The second category is a situation of **No Significant Fault or Negligence** by the Player for the Doping Offense. In his submissions before the Tribunal the Player seeks to have regard to this category. Under this category the period of ineligibility may be reduced under Rule M.5. b. to a period of ineligibility, which is not less than one-half of the minimum period. In this case the period of ineligibility that could be imposed is not less than one year rather than two years.

31. In order for Exceptional Circumstances to be considered Rule M.5.b. requires that the Player establish “*how the **Prohibited Substance** entered his or her system*”. In this case it is established that the substance was in the specimen because of the Sunday afternoon coca tea drinking and coca leaf chewing session. It now remains for this Tribunal to determine if there is **No Significant Fault or Negligence** in this case.
32. Appendix One defines **No Significant Fault or Negligence** to be present when a Player’s “*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 Doping Offense.*” Thus, the definition requires reference to the definition for **No Fault or Negligence**. That definition indicates that the Player establishes such when he “*did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had **Used** or been administered the **Prohibited Substance** or **Prohibited Method**.*”
33. The Player explains that prior to the Tournament he was visiting his friend Fabian Cusin who lived in Tucuman, Argentina. This city is located in Northeastern Argentina and is at a high altitude of more than 3,000 meters above sea level. He suffered from altitude sickness which resulted in headaches and an unsettled stomach. He explains that he was advised that if he drank the coca tea and chewed the coca leaves that his altitude sickness would be relieved. He visited his friend for three to four days prior to the Tournament where he drank and chewed the coca. On his departure from Tucuman, he took a bag of the coca leaves with him. In this regard he explained that despite the fact that Vina del Mar, Chile is at sea level he needed to continue to drink tea and chew leaves to rid himself of his prior altitude sickness and to continue to prepare himself for a return to his friend’s home in Argentina. By way of further explanation he indicated that it was common in the area where he was in Argentina for the general populace to sip coca tea and eat the leaves of the coca plant. He also explained that it was common to go into bars in this area and find coca leaves on plates available for use without charge. He states this practice is also common with the populace in Chile, Peru and some parts of Bolivia.
34. The Player testifies that he did not know that cocaine is derived from the coca plant. He states that he was unaware that drinking coca tea and

chewing coca leaves would result in his urine specimen revealing that he had cocaine in his body. The Tribunal finds such an explanation strains credulity in general and in his own particular case. He indicated in his submissions that he knew about the supplement issues in men's professional tennis. He is certainly knowledgeable about supplements and their potential harmful impacts on tennis athletes. This Tribunal holds that he should have reasonably known or suspected that a home anti dote for altitude sickness might have similar affects to the use of supplements. Furthermore, the Tribunal finds that he could reasonably have suspected or known that coca leaves were the source of cocaine. Therefore, it cannot be said that there is no fault or negligence as those terms are defined and used in the Anti-Doping Rules. It is also the case that he apparently used no caution whatsoever in sipping tea and chewing leaves. Under Rule C.1.a. it is the Player's *personal duty* and he is *responsible* for any Prohibited Substance found to be present in his specimen.

35. The Player's conduct is inconsistent with his statements to the Tribunal and is not the fulfillment of the responsibilities of a professional tennis player and how they should compete. It is inconceivable to the Tribunal members that someone who professes such concern as to have not taken any medication at all would use a home remedy for altitude sickness. There is inconsistency between his actions and his comments and the Tribunal finds the Player to be at fault for what has transpired.
36. The Tribunal finds that an explanation that a practise is commonplace in a certain part of the world is no justification for the Player to engage in that practice. This is particularly the case when the Player is very aware of the problem tennis has been having with respect to the ingestion of contaminated supplements or other reasons for elevated analytical readings in tennis. The circumstances here being somewhat akin to the taking of a supplement or home remedy medicine. Therefore, in the totality of the circumstances and taking into account the criteria for **No Fault or Negligence** the Tribunal does not find that there is **No Significant Fault or Negligence** on the part of the Player in relation to the Doping Offense. The Tribunal finds that the Player was at fault for what has transpired. This conclusion means that the Exceptional Circumstances of Rule M.5.a. are not available to the Player.
37. The foregoing conclusion means that there can be no reduction in the period

of ineligibility arising out of Rule M.2. Therefore, a two-year period of ineligibility will take effect from the date of this decision in accordance with Rule M.8. Furthermore, in addition to the automatic Disqualification pursuant to Article L already referred to in paragraph 28 Anti-Doping Rule M.7. shall apply. Under that Rule all other competitive results obtained since the date of the positive sample was collected on 9 February 2004 until the date of commencement of the period of ineligibility herein shall be disqualified including *forfeiture of any medals, titles, computer ranking points and prize money (without deduction for tax)*.

DECISION

The Tribunal makes the following orders based upon the foregoing grounds and discussion in the above opinion.

1. A First Doping Offense has occurred under Rule C 1. a. The Doping Offense involved the use of a S1 Prohibited Substance found in Appendix Three.
2. Under Rule L. 1. it is ordered that the Player's results obtained at the "Bellsouth Open" be Disqualified. As a result it is ordered that the medals, titles, computer ranking points and prize money earned at the "Bellsouth Open" tournament in Vina del Mar, Chile in 2004 be forfeited. The prize money is to be returned to the ATP without deduction for tax and is payable under Rule M. 8.
3. Under Rule M. 2., there being no Exceptional Circumstances existing under Rule M. 5., a period of ineligibility of two years is imposed for a First Offense. The commencement of the period of ineligibility is to be in accordance with Rule M. 8.
4. Further, under Rule M. 7. it is ordered that from the 9th of February 2004, the date of collection of the Sample, until the commencement of Ineligibility under paragraph 3 above all other competitive results be Disqualified. As a result it is ordered that medals, titles, computer ranking points and prize money be forfeited. The prize money is to be returned to the ATP without deduction for tax and is payable under Rule M. 8.
5. Under Rule M. 9. it is ordered that during the period of Ineligibility the Player cannot participate in any capacity in an Event or activity authorized or organized by the ATP. Furthermore, the Player shall not be given accreditation for, or otherwise granted access to any Event to which the ATP controls access.

DATED THIS DAY of JULY 2004. SIGNED in COUNTERPARTS.

Prof. Richard H. McLaren, C.Arb
(Chairman)
Barrister and Solicitor
SIGNED AT: London, Ontario, CANADA

Dr. Arturo Martí
Rio Piedras, PUERTO RICO

Dr. Gary Wadler, M.D.
Manhasset, N.Y. USA

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SIGNED AT: Rio Piedras, PUERTO RICO

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(Chairman)
Barrister and Solicitor
London, Ontario, CANADA

Dr. Arturo Martí
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