

ATP TOUR INC. TENNIS ANTI-DOPING PROGRAM**Simon Larose****Petitioner,****- and -****ATP Tour Inc.****Respondent.****DECISION**

Simon Larose {hereafter the "Player"} is a professional tennis player from Canada. He is a member of the ATP Tour {hereafter the "Tour" or the "ATP"}. Mr. Larose is represented by Michael Bardagi, Esq. of the law firm Lamarre Linteau & Montcalm in Montreal, Quebec. ATP is represented by Stephen D. Busey and John F. MacLennan, Esq. of the law firm of Smith Hulsey & Busey in Jacksonville, Florida.

Background

1. 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.
2. The Player is bound by all the provisions in the Rules and agrees to play by them. Under Rule B.1 the Player was bound to "and shall comply with all of the provisions of this Program, including making himself available for *Testing* both *In-Competition* and *Out-of-Competition*".
3. The Player provided an *In-Competition* urine sample #883273 pursuant to the Anti-Doping Rules during an ATP sanctioned tournament in Bucharest, Romania on September 11, 2004.
4. Urine sample #883273 was analyzed by the Laboratoire de controle du dopage INRS-Institut Armand-Frappier {"the Lab"}, located in Montreal, Canada, an International Olympic Committee {"IOC"} accredited laboratory. The Lab reported its analytical results to the Anti-Doping Program Administrator {"APA"} under the Anti-Doping Rules.

5. The Lab analytical result contained in the Doping Control Report to the APA states that the A sample of the Player indicated the presence of cannabis and cocaine metabolite.
6. Cocaine is identified under the Anti-Doping Rules as a stimulant and is set out as a Prohibited Substance referred to in Appendix Three of The Prohibited List. Cannabis is identified under the Anti-Doping Rules S.3. "cannabinoids" and is a specified substance in Appendix Three of the Prohibited List.
7. In accordance with the Anti-Doping Rules, Mr. Richard Ings, the Executive Vice-President Rules and Competition for the ATP, by letter dated December 14, 2004 provided a *Case to Answer Notification* {hereafter "the Notice"} to the Player. That same letter advised the Player that David W. Rivkin, Esq. of the law firm Debevoise & Plimpton LLP (USA) was to be the Chair of the Anti-Doping Tribunal.
8. The Chair was advised by counsel for the parties in a telephone conference call on February 15, 2005 that the player had, pursuant to Rule K.1.c., admitted to the commission of a Doping Offense and acceded to the consequences specified in Mr. Ings' letter of January 3, 2005. The Chair has further been advised by counsel that the player has earned no prize money or points since the date of his providing a sample at Bucharest ATP tournament.

The Relevant Anti-Doping Rules

9. The relevant rules are set forth below:

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.**

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- K. **Due Process.** Rule K.1.c. provides as follows:

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- 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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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 (presence 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*.

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:

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

Discussion

10. The Player has voluntarily admitted that he had committed the *Doping Offences* specified in the Notice. By Rule K. 1.c., the Player has acceded to the *Consequences* specified in the Notice. In such circumstances, a hearing before the Anti-doping Tribunal is not

required. Instead, the Chairman of the Tribunal shall issue this decision confirming the commission of the *Doping Offences* specified in the Notice.

11. The Player's admission means that he has accepted the Lab report. The Lab report establishes that the Player had two Prohibited Substances in his Specimen. Therefore, a Doping Offense has been established and occurred under Anti-Doping Rule C. 1.a. and C. 1.b.
12. Since the date of the giving of the sample, the Player has won no prize money and been awarded no computer ranking points.
13. Under Rule M.2., the period of Ineligibility for a violation of Rule C. 1 is a period of two years' Ineligibility for a First Offense. The player has advised the Chair that he has voluntarily not engaged in any competition since being advised on November 11, 2004 of the lab analysis. Pursuant to Rule M.8.c., the two year period of ineligibility shall commence on November 11, 2004 and shall conclude on November 10, 2006.

Orders

The Tribunal makes the following orders based upon the foregoing grounds and discussion:

1. A First Doping Offense has occurred under Rule C 1. and M. 2. Therefore, a period of Ineligibility for two years shall commence by Rule M. 8. as of November 11, 2004 and conclude on November 10, 2006.
2. Because the player earned no prize money or points at the Bucharest tournament or at any tournament thereafter, there is no forfeiture of prize money or points.

DATED THIS 18th day of February, 2005.



David Rivkin, Esq.,
Chairman
ATP Tour Anti-Doping Tribunal

SIGNED AT: New York City, New York, USA