



International Paralympic Committee  
Anti-Doping Committee

In the matter of:

INTERNATIONAL PARALYMPIC COMMITTEE  
(the *Applicant*)

Versus

Mr. Seyed Yousef YOUSEFI PASHAKI  
(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  
Ms. Nicki Vance, Mr. George Tsamis and Ms. Kate Rogowiec; Members of the  
IPC Anti-Doping Committee (together with the Chairperson, the *Hearing Panel*)

Hearing conducted on 11 April 2012 at 13:00 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 an Iranian athlete in the sport of IPC Powerlifting.

## Communication

3. In accordance with Article 14.1.1 of the IPC Anti-Doping Code 2011 (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 05 February 2012, the Respondent competed at the Malaysia Open Powerlifting Championships in Kuala Lumpur, Malaysia (hereafter, the *Event*).
5. The Event was approved by IPC Powerlifting and the Malaysian Paralympic Committee had been identified as the Anti-Doping Organization (as defined in the Code) with Result Management (as defined in the Code) jurisdiction.
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 2553761) (the *Sample*) and disclosed the use of 'protein' and 'food' as medication and/or supplement used in the last seven days before the doping control test.
8. The Respondent complied with the request, provided the 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 New Delhi, India (National Dope Testing Laboratory, the *Laboratory*).



9. On 16 February 2012, the Laboratory reported an adverse analytical finding for Methylhexaneamine to the Malaysian Para Powerlifting Federation. The report was then sent to the Malaysian Paralympic Committee. Methylhexaneamine is classified as S6b. Specified Stimulants on the World Anti-Doping Code (WADC) 2012 Prohibited List (the *Prohibited List*) and is prohibited in-competition.
10. The IPC received a copy of the report through ADAMS on 27 February 2012 and followed-up with the Malaysian Paralympic Committee to determine if they had begun the Results Management process.
11. The Malaysian Paralympic Committee did not hold jurisdiction over the Respondent as he is not a Malaysian national, and deferred the case to the IPC in its position as International Federation.
12. On 29 February 2012, the IPC notified the Respondent via NPC Iran 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 (29 February 2012) and that unless Articles 10.4 or 10.5 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 (05 February 2012);
  - disqualification of all competition results including forfeiture of any medals, points and prizes obtained subsequent to the sample collection date (05 February 2012);
  - 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.

13. The notification included a form titled "Letter of Decision" for the Respondent to complete and return to the IPC by no later than 07 March 2012 at 17:00 hours CET.
14. 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 the Sample;
  - challenged the consequences set out in the 'Notification of an Adverse Analytical Finding' and wished to be invited to a Hearing;
  - waived his right to request the B sample analysis; and
  - accepted the provisional suspension.
15. Upon receipt of the Letter of Decision and the supporting statements by the Respondent, the Respondent was informed that a Hearing (as defined in the Code) would be scheduled to determine the outcome of his case.
16. On 13 March 2012, the Respondent submitted a letter explaining that he had taken the supplement "Jack3d" and it was brought to his attention that he misunderstood the use and application of the supplement. He stated that he has gone through doping control over 10 times and all his tests have been negative. The Respondent also claimed that the supplement "Jack3d" that he had taken did not boost his performance as he had received lower test results at a different competition where he had not used the supplement "Jack3d". The Respondent also made a plea to consider his physical and family conditions when judging the case.

### **The Hearing**

17. The Hearing took place on 11 April 2012 via conference call, in accordance with Article 8.1.6 of the Code.
18. The IPC was represented in the case by:  
Ms. Vanessa Webb, IPC Anti-Doping Manager
19. Attending the Hearing on behalf of the Respondent were:  
Seyed Yousef Yousefi Pashaki, the Respondent  
Dr. Bahman Zand, the head of I.R.I NPC Medical department
20. Ms. Emilie Jones, IPC's legal adviser, attended the Hearing.
21. Mr. Jon Amos, Chairperson Sport Technical Committee, IPC Powerlifting, attended the Hearing as the representative of IPC Powerlifting and as an observer.
22. 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.

23. 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 Article 10.4 (*Specified Substances*) or Article 10.5 (*Exceptional Circumstances*) to reduce the period of ineligibility.
24. It was explained to the Hearing Panel that the Respondent comes from a low social level in Iran and that he is not well educated.
25. The Respondent explained that he had received some money from the NPC Iran. He further explained that he had used this money to purchase the supplement "Jack3d".
26. The Respondent explained that he used the supplement "Jack3d" for the first time prior to his competition at the Event and he did not know it contained a banned substance. He had witnessed other able bodied athletes using this supplement without complications and, therefore, did not think that it contained a banned substance. The Respondent stopped taking the supplement approximately 12-15 days prior to his competition at the Event.
27. The Respondent declared on the doping control form that he had taken "protein" and he indicated that he was referring to the supplement "Jack3d".
28. Dr. Zand explained that there had been other cases in Iran with the same substance and that the supplement is problematic for athletes. He also indicated that the Respondent is a good athlete and would like to be a role model for other athletes and that he is a "victim in this story".

### **Analysis**

29. 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 Article 2.1.1.). The Athlete has confirmed the use of the Prohibited Substance that was found in his Sample.



30. The Prohibited Substance found in the Sample is classified as Class S6b. Specified Stimulants on the WADC 2012 Prohibited List and is prohibited in-competition only.
31. It is noted that the Respondent's claim that he stopped taking the Prohibited Substance 12-15 days prior to the competition at the Event is incompatible with the analytical finding of the WADA accredited laboratory considering the quick elimination of the half-life of the Prohibited Substance.
32. The Hearing Panel finds that the Respondent was negligent in his general anti-doping duties under Article 2 of the Code because the Respondent knowingly purchased the supplement "Jack3d" with the intention of improving his performance. The Hearing Panel considers that there is no evidence to the comfortable satisfaction of the Hearing Panel which shows the absence of intent to enhance sport performance to consider elimination or reduction of period of ineligibility for specified substances under specific circumstances in accordance with Article 10.4 of the Code. Furthermore, the Hearing Panel does not consider that Article 10.5 applies as the Respondent has failed to provide evidence that the circumstances in his case were truly exceptional.

#### **Recommendation to the IPC Governing Board**

33. 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 Malaysia Open Powerlifting Championships and at any other event from the date of 05 February 2012 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 (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 29 February 2012 (date of notification) until 28 February 2014; 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.

34. The IPC Anti-Doping Committee would further like to remind the Respondent of his status of Ineligibility as set out 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**

35. The Respondent is reminded of the appeal procedures set out in Article 13 of the IPC Anti-Doping Code.

Submitted to the IPC Governing Board on 18 April 2012 as a recommendation from the IPC Anti-Doping Committee in accordance with Article 8.5.2 of the IPC Anti-Doping Code 2011.

On 23 April 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 typed name.

Mr. Xavier Gonzalez  
Chief Executive Officer  
International Paralympic Committee

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