

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
THE CYCLING TIME TRIALS**

Before:

Christopher Quinlan QC
Professor Isla Mackenzie
Professor Gordon McInnes

BETWEEN:

UK ANTI-DOPING LIMITED (“UKAD”)

Anti-Doping Organisation

and

SHAUN LEONARD

Respondent

DECISION OF THE NATIONAL ANTI-DOPING PANEL

A. INTRODUCTION

1. On 23 December 2020 pursuant to Article 5.3 of the National Anti-Doping Panel (“NADP”) 2019 Procedural Rules (“the 2019 Procedural Rules”)¹ the Chair was appointed by the President of the NADP to determine anti-doping proceedings brought by UK Anti-Doping

¹ Which were then in force.

(“UKAD”) against Shaun Leonard (‘the Respondent’). Pursuant to the same procedure the remaining Panel members were appointed on 5 February 2021.

2. Cycling Time Trials (“CTT”) is the National Governing Body for the sport of cycling time trials in England, Scotland and Wales. CTT adopted the UKAD Anti-Doping (2015²) Rules as its Anti-Doping Rules (“ADR”). Pursuant to ADR Article 7.1.3 UKAD has results management under the ADR.

3. The Tribunal hearing was held by video conference on 22 July 2022 and was attended by:

- 3.1. Ailie McGowan, UKAD, Lawyer
- 3.2. Stacey Cross, UKAD, observing
- 3.3. Scott Smith, UKAD, observing
- 3.4. Brodie Edmead, UKAD, observing
- 3.5. Nicholas Sharpe, Witness
- 3.6. Alisha Ellis, NADP Secretariat

4. This document constitutes our final reasoned decision, reached after due consideration of the evidence, submissions and the Arbitral Awards placed before us.

B. BACKGROUND

(1) Core facts

5. The core facts are as follows. On 27 August 2018 the Respondent was stopped by Swiss customs at the Swiss/Italian border while travelling to the UCI 2018 Gran Fondo World Championships in Varese, Italy. He did not compete at the 2018 Gran Fondo World Championships. He was travelling to support another cyclist, John Vardy, who was the driver and owner of the motor car they were both travelling in when stopped.

² The relevant Rules.

6. Upon searching the said motor car, Swiss customs found and seized the following Prohibited Substances:
 - 6.1. Testabol Propionate (contains testosterone and is prohibited at all times);
 - 6.2. Tostran Gel (also contains testosterone and is prohibited at all times);
 - 6.3. Co-amilofuse (contains furosemide and amiloride, both of which are prohibited at all times);
 - 6.4. Clenox (a brand name for clenbuterol, which is prohibited at all times);
 - 6.5. Dexamfetamine (prohibited In-Competition only);
 - 6.6. Morphine (prohibited In-Competition only); and
 - 6.7. Provigil (a brand name for modafinil, which is prohibited In-Competition only).
7. The Respondent was interviewed by the local police in Switzerland. He said all the substances found in the motor car belonged to him. He said the substances were medications prescribed to him following injuries from a serious bike accident and the diagnosis of late onset hypogonadism. The substances were hidden in his own personal belongings.
8. On 17 October 2019, the Respondent was convicted, before the Criminal Court of the Canton of Ticino in Switzerland, of the criminal offence described in Article 19a of the Federal Law on doping in that on 27 August 2018 in Ponte Tresa, Mr Leonard was in possession of Prohibited Substances pursuant to the Federal Law on doping for his own personal use. He was fined CHF 500.00 (exclusive of a CHF 200.00 court tax and CHF 100.00 legal costs).
9. On 24 June 2020, UKAD charged the Respondent with violating ADR Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method) and ADR Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method).
10. On 10 December 2020, UKAD requested an NADP Tribunal be convened to determine the charges in this case.

11. The Respondent has not provided a formal response to the charges. He has asserted that he is not bound by the ADR and that UKAD does not have jurisdiction in these proceedings.

(2) Proceedings

12. Pursuant to Article 7.8 of the 2019 Procedural Rules the Chair conducted a directions hearing by telephone conference call, on 19 January 2021. Present were –

12.1. Ailie McGowan and Alison Peacock, UKAD.

12.2. Alisha Ellis, NADP Secretariat.

13. The Respondent did not attend. In light of the history, the Chair was satisfied that the Respondent knew of these proceedings, had been given proper notice of the directions hearing and the fact that it would proceed in his absence. He was further satisfied that it was appropriate to proceed in his absence pursuant to Article 7.9 of the 2019 Procedural Rules and did so. He issued directions with a view to the substantive hearing taking place on 9 April 2021. The Respondent was provided with a copy of the said directions.

14. Thereafter the proceedings were adjourned while the Respondent disputed jurisdiction by way of County Court proceedings (“the civil proceedings”). The civil proceedings were protracted and consequently delayed these proceedings.

15. On 15 June 2022, we were provided with a copy of an order of County Court at Manchester (HHJ Evans) dated 26 May 2022 whereby the Respondent’s claim was ordered to be stayed under section 9 of the Arbitration Act 1996 until the conclusion of these (arbitral) proceedings. The said order was consequent upon Judge Evans finding that the Respondent was subject to the ADR.

16. On 21 June 2022, the Chair issued further directions and fixed the substantive hearing for 22 July 2022. The Respondent was sent a copy of the said directions. It was directed to take place by video conference call, with liberty for either party to apply for an in-person hearing. Neither did.

17. The written directions expressly stated no decision has been made in respect of jurisdiction. As the Chair stated therein, the appropriate way forward was to hear arguments and resolve the question of jurisdiction as part of the substantive hearing.

(3) Proceeding in the Respondent's absence

18. The Respondent did not attend the substantive hearing which took place as directed. To the extent he engaged with or participated in these proceedings, it was to challenge jurisdiction.

19. The NADP 2021 Procedural Rules ('the 2021 Procedural Rules') came into effect on 1 January 2021. Article 8.8 thereof provides:

"Unless the Tribunal orders that parties may make submissions in writing only, all parties should attend hearings in person, along with any representative(s). Hearings may be conducted remotely using technology, such as by video or teleconference. The non-attendance of any party or his representative at the hearing, after proper notice of the hearing has been provided, shall not prevent the Tribunal from proceeding with the hearing in his absence, whether or not written submissions have been made by or on behalf of that party."

20. We were satisfied that he had proper notice and knew of these proceedings. He could hardly fail to be since the sole purpose of the civil proceedings he brought was to stop them. He knew that the inevitable consequence of losing those proceedings was that these would continue to their resolution.

21. Throughout the course of these proceedings and before, the Respondent has used two email addresses. Both have been used for correspondence between him, the NADP Secretariat and UKAD. He has used both to send emails. We were satisfied on all the available material that he had proper notice and knew of the date of the substantive hearing. That material includes the following:

21.1. He was sent by email the directions issued on 21 June 2022 which clearly stated the date thereof as 22 July 2022.

21.2. Further he was sent a letter from the NADP Secretariat dated 18 July 2022 which informed him of the date and time of the said hearing. We were provided with proof of delivery of that letter on 21 July when it was signed for by "LEONARD".

21.3. UKAD emailed him twice on 15 July 2022.

21.3.1. One sent at 13:38 (to both of his addresses) expressly referred to the hearing on 22 July 2022.

21.3.2. A further one sent at 16:41 (to both of his addresses) attached a proposed timetable for the hearing on 22 July 2022. The said timetable has the date of the hearing at the top.

21.3.3. UKAD produced evidence which establishes that both emails were delivered to the said addresses.

22. We were satisfied that it was appropriate to proceed in the Respondent's absence. He has a long and resolute approach to these proceedings. The approach is one of challenge without presence or substantive participation. No explanation was provided for his absence, which was in keeping with his determined approach. His steadfast refusal to engage cannot be permitted to derail proceedings, subject to jurisdiction, properly brought against him. We inferred nothing adverse to him from his absence and of course did not treat it in any way as supporting UKAD's case.

C. JURISDICTION

(1) The issue

23. The Respondent disputed jurisdiction. His case was that he was not subject nor bound by the ADR at the material time. It is neatly summarised in the skeleton argument dated 13 May 2022 submitted by Counsel on his behalf for the civil proceedings ("the Skeleton Argument"). Paragraph 18 thereof states:

"The court is invited to determine that the Appellant was not bound by the UKADR at the material times and that there was no contract:

18.1. The Appellant resigned his membership of the Club on 5 June 2018 at 07:59 by

email to Andrew Regan, the club secretary [6/146]. There is an email receipt showing that the email was received at 08:06 on 5 June 2018 [8/152]. Accordingly, 1.2.1(a) of the UKADR does not apply [3c/28].

18.2. Further and in any event, it is not admitted in any event that the Club was affiliated to CTT such that the UKADR applied. It is also unclear how a member could be bound by the UKADR if no notice had been given and what the Respondent's case is on incorporation of terms into the Appellant's membership with the Club.

18.3. At that material time, the Appellant had retired and therefore the UKADR no longer applied: rule 1.4.1 of the UKADR. The evidence provided shows that CTT did not require notification [18/316]. The Appellant suffered a serious accident on 15 May 2018 and considered he would no longer be able to compete.

18.4. At the material time (June 2018), the Appellant was not "participating" in Events. Accordingly, 1.2.1(b) of the UKADR does not apply.

18.5. The CTT rules (and therefore the UKADR) only apply to each Event [18/310]."

24. UKAD submitted that Mr Leonard was bound by the ADR at the material time on two separate bases:

- 24.1. By way of his membership with East Lancashire RC, a CTT affiliated club; and
- 24.2. Through his participation in CTT authorised events.

(2) ADR

25. CTT has adopted the ADR by Regulation 25 of the 2018 CTT Regulations. ADR Article 1.2.1 provides:

"These Rules shall apply to:

(a) all Athletes and Athlete Support Personnel who are members of the NGB and/or of member or affiliate organisations or licensees of the NGB (including any clubs, teams, associations or leagues);

(b) all Athletes and Athlete Support Personnel participating in such capacity in Events, Competitions and other activities organised, convened, authorised or recognised by the NGB or any of its member or affiliate organisations or licensees (including any clubs, teams, associations or leagues), wherever held;

(c) any Athlete or Athlete Support Person who, by virtue of a contractual arrangement or otherwise, is subject to the jurisdiction of the NGB for purposes of anti-doping; and..”

(3) Evidence

26. UKAD relied on a witness statement from Nicholas Sharpe (“NS”), dated 29 January 2021. NS is the CTT National Secretary (Legal and Corporate). By that statement he produced a number of relevant exhibits. He also gave evidence during the hearing on 22 July 2022.

27. In summary NS’s evidence was as follows:

27.1. CTT does not operate an individual membership programme. Instead, clubs affiliate with CTT. Individuals are required to be a member of a CTT affiliated club in order to be eligible to compete in CTT authorised open events. Clubs affiliate with CTT each year, usually between October and January.

27.2. East Lancashire Road Club (“East Lancashire RC”) was affiliated on 28 [sic] August 2018 and remains affiliated. He did not know when it first became affiliated.

27.3. If a member of a CTT affiliated club wishes to enter into CTT authorised open events online, they must separately register with CTT as a registered rider. In order to register with CTT as a registered rider you have to complete an online Registration Form. It is possible to complete a paper form but that is rare, he said.

27.4. CTT authorise two different types of event: Type A events (commonly called “open” events) and Type B events (commonly called “club” events). To be eligible to ride in “open” events, an individual must be a member of a club that is affiliated to CTT.

28. In respect of the Respondent, he said and produced documentary exhibits in support:

28.1. The Respondent registered as a CTT registered rider on 20 April 2016. He was assigned CTT number 4561. He produced a copy of CTT profile [Exhibit NS-4], which showed that he was a member of East Lancashire RC.

28.2. He produced a record of the Respondent’s participation in CTT open events (Exhibit NS-6), which is appended to his profile. It shows that he participated in several CTT

events from at least 29 April 2017. The said record shows he entered the following events:

28.3. West Pennine Road Club 10 mile TT on 12 May 2018 – he submitted a paper entry (Exhibit NS-7). He signed the 'signing on' sheet, which contains this declaration:

"I understand that the event will be held under the Rules and Regulations of Cycling Time Trials as shown in the current Handbook and confirm that I am conversant with such Rules and Regulations and undertake to abide by them and to participate in the Drug Testing Programme whenever required to do so..."

28.4 He completed the TT in 22 minutes 47 seconds.

28.5 He entered but did not start the RTTC National 24-hour Championship on 21 July 2018.

28.6 Weaver Valley Road Club 25 Mile TT on 8 September 2018 – he entered the race online (Exhibit NS-8). He was disqualified.

28.7 West Pennine Road Club 10 Mile Time Trial on 11 May 2019 - he entered the race online (Exhibit NS-17). He finished the race in 49th place with a time of 25:31 This was the last CTT authorised open event which he competed in.

29. In each event he entered his club as East Lancashire RC.

30. On 12 July 2021, after UKAD had filed its Jurisdiction Submissions and Supplementary Submissions, one David Trippier, Club Secretary for East Lancashire Road Club, requested that his witness statement dated 18 January 2021 and exhibits be withdrawn from the proceedings before the NADP. On 13 July 2021, UKAD informed the NADP secretariat of his request. Before us, UKAD did not rely on his evidence, it was redacted from an earlier version of the hearing bundle and it played no part in our deliberations or decision.

31. We had full regard to the many emails in which the Respondent challenged jurisdiction and set out the basis for his contention that he was not bound by the ADR at the material time. We had appropriate regard to the Skeleton Argument dated 13 May 2022.

32. We are not bound by the decision of HHJ Evans. Indeed, we approached the issue of jurisdiction afresh. With respect, we did not have regard to HHJ Evans's decision in determining the issue, not least because the evidence before us is different and we must reach our own decision.

(4) Decision

33. UKAD bears the burden of proving the charge. It must prove jurisdiction to our comfortable satisfaction.

34. To establish that jurisdiction exists, we need only be satisfied that the Respondent was bound by the ADR on one of the bases.

35. We accept NS's evidence, supported by the contemporaneous documents (some completed by the Respondent) that before and after 27 August 2018 the Respondent was a member of East Lancashire RC. He entered races either side of that date as a member of that club. He would have had to have membership of a club to participate therein. In answer to question from the Chair, NS said it was theoretically possible to purport to be a member of a club, when you were not. But, he said, TT racing was such a small community that you would soon be identified. Also, he would then have had no good reason to resign from the club before 27 August 2018 and re-join in time for the race on 8 September 2018.

36. We have seen no documentary evidence to support the Respondent's contention that he resigned from East Lancashire RC. It is inconsistent with his entering the races on 21 July 2018 and 8 September 2018 as a member of that club. Similarly, we have not seen any evidence that he had in fact retired. That too is inconsistent with his entries in the said races. We have also not heard that evidence from him, a direct consequence of his decision not to participate in the proceedings. We therefore reject those contentions.

37. Therefore, we are comfortably satisfied that at the time he was stopped, namely 27 August 2018 the Respondent was a member of East Lancashire RC. We accept NS's evidence that the said club was affiliated to CTT on 27 August 2018. Affiliation is annual. It would have to be an affiliated club for the Respondent's entry to (for example) the West Pennine Road

Club 10-mile TT on 12 May 2018 to be accepted. Affiliated clubs and its members are subject to the ADR.

38. It follows that we are comfortably satisfied³ that at the material time the Respondent was subject to and bound by the ADR Article 1.2.1(a).

39. Further, the Respondent participated in CTT events from 29 April 2017 to 11 May 2019. An Athlete via their participation in events organised by an NGB is implied by their conduct to have agreed to be bound by the ADR. In *Ohlsson v WRU*⁴ the Panel stated:

*“Even if there had been no such registration forms signed by the Appellant we would have been satisfied that the Appellant had agreed to be subject to the Respondent’s anti-doping regulations and Regulation 21 by virtue of having taken part in organised rugby within the geographical jurisdiction of the respondent and by taking part in competitions organised by the Respondent.”*⁵

40. In any event, each time the Respondent entered one of the said races, he signed a form which included a declaration in the terms set out in paragraph 28.3 hereof. He therefore expressly agreed to be bound by the ADR. Adopting the reasoning in *Ohlsson v WRU*, which involved an Out-of-Competition Sample, Article 1.2.1(b) is not restricted to Anti-Doping Rule Violations (“ADRVs”) committed whilst participating at such events.

41. Therefore, we are comfortably satisfied that the Respondent was also subject to and bound by the ADR by virtue of Article 1.2.1(b) thereof.

D. ANTI-DOPING RULE VIOLATION

(1) ADR

42. ADR Article 2.2 states:

³ ADR Article 8.3.1.

⁴ *Ohlsson v WRU* (NADP Appeal Tribunal) decision dated 6 January 2009.

⁵ *Ibid*, p10. It is of note that case involved an out of competition sample.

“The following constitute Anti-Doping Rule Violations: ...

2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method, unless the Athlete establishes that the Use or Attempted Use is consistent with a TUE granted in accordance with Article 4

2.2.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his/her body and that he/she does not Use any Prohibited Method. 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 for Use of a Prohibited Substance or a Prohibited Method; nor is the Athlete’s lack of intent, Fault, negligence or knowledge a valid defence to a charge than an Anti-Doping Rule Violation for Use has been committed under Article 2.2.

...

2.2.3 The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. For an Anti-Doping Rule Violation to be committed, it is sufficient that the Athlete Used or Attempted to Use a Prohibited Substance or Prohibited Method.”

43. “Use” is defined within the ADR as follows:

“Use:

The utilisation, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method.”

44. ADR Article 2.6 provides that possession of a Prohibited Substance and/ or a Prohibited Method is an ADRV.

45. ADR Article 8.3.3 states:

“The hearing panel shall have the power to decide on the admissibility, relevance and weight of any evidence (including the testimony of any fact or expert witness) and shall not be bound by any legal rules in relation to such matters. Facts may be established by any reliable means, including admissions.”

46. If it were needed, there is ample authority for the proposition that an ADRV *may* be established on admissions alone⁶.

(2) Charges

47. By Notice dated 24 June 2020 (“the Notice of Charge”) UKAD charged the Respondent with the following ADRVs:

A. Committing an ADRV contrary to ADR Article 2.2 in that, on or around 27 August 2018, he Used or Attempted to Use one or more of the following Prohibited Substances:

1. testosterone; and/or
2. amiloride; and/or
3. furosemide; and/or
4. clenbuterol.

B. Committing an ADRV contrary to ADR Article 2.6 in that, on 27 August 2018, he was in Possession of one or more of the following Prohibited Substances:

1. testosterone; and/or
2. amiloride; and/or
3. furosemide; and/or
4. clenbuterol.

(3) Evidence

48. On 8 February 2018, the Respondent filed Therapeutic Use Exemption (“TUE”) applications with UKAD for medication containing the following Prohibited Substances:

- 48.1. Testosterone;
- 48.2. Dexamfetamine;
- 48.3. Lisdexamfetamine;

⁶ For example, *USADA v Leogrande* (AAA No. 77 190 00111 08) and *USADA v O’Bee* (AAA No.77 190 00515 09).

- 48.4. Morphine; and
- 48.5. Modafinil.

49. By email dated 1 March 2018, he was informed by UKAD that due to his level of competition, he was not required to obtain TUEs for the above-listed substances in advance of Competition. UKAD advised him that instead he would be required to submit retroactive TUE applications if he was subject to a doping control test on a future date. No such application was ever made.

50. On 17 July 2019, the Respondent attended an interview with UKAD investigators. The interview confirmation letter dated 2 July 2019 contained his rights and entitlements, including that it was a voluntary interview and he was entitled to legal representation.

51. During the said interview, the Respondent said the substances in the photographs of items seized by Swiss customs on 27 August 2018 belonged to him and were “*tucked away*” in his “*private stuff*”. He said that he had used the substances in the preceding mornings and evenings. He said he purchased clenbuterol in 2015 or 2016 and initially used it when he was “*fat*”. He said he had used clenbuterol (for approximately three or four cycles, three weeks per cycle (A120)). He used it for approximately three months.

52. During the said interview the Respondent also stated that he had also used a number of Prohibited Substances including Tamsulosin, Diazepam, Gabapentin, Clopidogrel, Lansoprazole and Omeprazole. He said he used Sustanon, which contains testosterone, every four days, for the past twelve - eighteen months or so.

53. There is nothing before us which cast doubt on the reliability, accuracy or truth of those admissions freely made by the Respondent.

54. On 17 October 2019, the Respondent was convicted, before the Criminal Court of the Canton of Ticino in Switzerland, of a criminal offence arising out of his Possession of Prohibited Substances (“the Swiss conviction”) including:

- 54.1. 94 x Clenox5 0.04 mg - a brand name for clenbuterol, which is prohibited at all times

54.2. 7x Co-amilofruse 5/40 - co-amilofruse contains furosemide and amiloride, both substances are prohibited at all times.

54.3. Two vials of Testabol Propionate 100 mg – which contains testosterone, which is prohibited at all times.

55. The Respondent did not provide a formal response to the charges. He never resiled from the said admissions. Instead, he challenged proceedings on the basis of a claimed lack of jurisdiction.

(4) Determination

56. UKAD bears the burden of proving the charge. It must do so to the comfortable satisfaction of the Panel⁷.

(a) Charge A

57. On the basis of the Respondent's admissions, we are comfortably satisfied that UKAD has proven this charge. We are satisfied that the Respondent used testosterone, amiloride, furosemide and clenbuterol.

(b) Charge B

58. On the basis of the evidence of his stop and seizure, the Swiss conviction and the Respondent's admissions we are comfortably satisfied that UKAD has proven this charge. We are satisfied that on 27 August 2018 the Respondent was in possession of the following Prohibited Substances - testosterone; amiloride, furosemide; and clenbuterol.

E. SANCTION

(1) ADR

⁷ Article 8.3.1.

59. ADR Article 10.2:

“10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of a Prohibited Substance and/or a Prohibited Method

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2. or 2.6 that is the Athlete’s or other Person’s first anti-doping offence shall be as follows, subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

(a) The Anti-Doping Rule Violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the Anti-Doping Rule Violation was not intentional.

(b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD can establish that the Anti-Doping Rule Violation was intentional.

If ADR Article 10.2.1 does not apply, the period of Ineligibility shall be two years.”

60. As for the meaning of intentional, ADR Article 10.2.3 provides:

“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...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...”

61. ADR Article 10.7.4(a) provides:

“10.7.4 Additional rules for certain potential multiple offences:

(a) For the purposes of imposing sanctions under Article 10.7, an Anti-Doping Rule Violation will only be considered a second Anti-Doping Rule Violation if UKAD can establish that the Athlete or other Person committed the second Anti-Doping Rule Violation after he/she received notice, or after UKAD or its designee made a reasonable attempt to give notice, of the first Anti-Doping Rule Violation. Otherwise the Anti-Doping Rule Violations, shall be considered as one single first Anti-Doping Rule Violation, and the sanction imposed shall be based on the Anti-Doping Rule Violation that carries the more severe sanction.”

62. The 2015 ADR (obviously) pre-date the coming into force of the 2021 World Anti-Doping Code (“2021 WADC”) and the 2021 Anti-Doping Rules (“2021 ADR”). Article 1.6.2(d) thereof permits application of the 2021 ADR where there the principle of *lex mitior* operates in relation to consequences. Save for reporting, as to which see below, we have not identified any such provision. It is also to be noted that Article 10.4 2021 WADC (“Aggravating Circumstances”) does not apply to this case.

(2) Ineligibility

63. The effect of ADR Article 10.7.4(a) is that the Respondent’s ADRVs are to be treated as a single ADRV for the purposes of imposing sanctions and the sanction imposed shall be based on the ADRV that carries the more severe sanction.

64. Furosemide and amiloride are Specified Substances and testosterone and clenbuterol are non-Specified Substances as defined by the WADA 2018 Prohibited List. ADR Article 10.2.1(a) mandates a four-year period of Ineligibility for an ADRV involving the Use and Possession of non-specified Prohibited Substances, unless the Athlete can establish the ADRV was not intentional. As to that:

64.1. There is no evidential basis to conclude that the Respondent’s ADRVs were not intentional and the burden is upon him.

64.2. In any event, given the fact of this case, including his admissions we are comfortably satisfied his use and Possession were intentional with the meaning of ADR Article 10.2.3.

65. Therefore, the appropriate period of Ineligibility is one of four years.

66. There is no evidence that he has competed during the currency of his Provisional Suspension, which was imposed by the Notice of Charge and took immediate effect. The period of Ineligibility will commence on 24 June 2020⁸.

⁸ ADR Article 10.11.3.

(3) Disqualification

67. Pursuant to ADR Article 10.8 the Respondent's results for the following races are disqualified:

- 67.1. Weaver Valley CC 25 Mile Time Trial on 8 September 2018;
- 67.2. East Lancashire RC 10 Mile Time Trial on 27 April 2019; and
- 67.3. West Pennine Road Club 10 Mile Time Trial on 11 May 2019.

(4) Reporting

68. Article 8.5.1 2021 ADR does not require mandatory Public Reporting for "Recreational Athletes". Even if this Respondent is a Recreational Athlete within the meaning of the 2021 World Anti-Doping Code, given the level at which he was competing and the clear public interest in the fight against doping in sport, which is helped by publicising periods of Ineligibility, this is not a case where it is appropriate to prevent public disclosure.

F. SUMMARY

69. For the reasons set out above, we find:

- 69.1. The ADRVs have been established.
- 69.2. The period of Ineligibility imposed is four years commencing on 24 June 2020 and ending at 11:59 on 23 June 2024.
- 69.3. The Respondent's results in the following races are disqualified:
 - 69.3.1. Weaver Valley CC 25 Mile Time Trial on 8 September 2018;
 - 69.3.2. East Lancashire RC 10 Mile Time Trial on 27 April 2019; and
 - 69.3.3. West Pennine Road Club 10 Mile Time Trial on 11 May 2019.

G. RIGHT OF APPEAL

70. In accordance with Article 13.5 of the NADP Procedural Rules any party who wishes to appeal must lodge a Notice of Appeal with the NADP Secretariat within 21 days of receipt of this decision.

71. Pursuant to ADR Article 13.4.2(b), the Appeal should be filed to the National Anti-Doping Panel, located at Sport Resolutions, 1 Paternoster Lane, London, EC4M 7BQ (resolve@sportresolutions.com).



Christopher Quinlan QC

Chair, on behalf of the Panel

London, UK

11 August 2022

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