

NATIONAL ANTI-DOPING PANEL

Before:

**Paul Gilroy QC
(Chairman)
Carole Billington-Wood
(Specialist Member)
Dr Neil Townshend
(Specialist Member)**

Between:

**UK Anti-Doping
(Anti-Doping Organisation)**

and

**Philip Tinklin
(First Respondent)**

**Sophie Tinklin
(Second Respondent)**

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES
OF THE WELSH AMATEUR BOXING ASSOCIATION AGAINST
PHILLIP TINKLIN AND SOPHIE TINKLIN**

FINAL DECISION OF THE ANTI-DOPING TRIBUNAL

NATIONAL ANTI-DOPING PANEL

1. **INTRODUCTION**

- 1.1 This is the Final Decision of the Anti-Doping Tribunal convened under Article 8 of the UK Anti-Doping ("UKAD") Rules to determine charges (the "Charges") brought against Phillip Tinklin and Sophie Tinklin (the "Respondents") in respect of the alleged commission of Doping Violations contrary to the Welsh Amateur Boxing Association ("WABA") Anti-Doping Rules (the "ADR").
- 1.2 The WABA is the National Governing Body ("NGB") for amateur boxing in Wales. It is a National Member Federation of the International Amateur Boxing Association ("IABA"), and a home nation member of the British Amateur Boxing Association ("BABA"). By resolution of the Board of Directors of the WABA, as from 16 July 2009, the Anti-Doping Rules of the WABA are the UKAD Rules published by the Drug Free Sport Directorate of UK Sport (or its successor) as amended from time to time, which Rules shall take effect and be construed as the Anti-Doping Rules of the WABA. References in this Decision to the "Anti-Doping Rules" or the "Rules" are, unless otherwise stated, references to both the UKAD Rules and the Anti-Doping Rules of the WABA, (or "WABA ADR"), the two sets of Rules being identical for all material purposes.
- 1.3 Article 1.2.1 of the UKAD Rules provides that the Rules apply (inter alia) to all athletes who are members of the WABA and/or of member or affiliate organisations or licensees of the WABA (including any clubs, teams, associations or leagues) and all Athletes and "*Athlete Support Personnel*" (as defined) participating in such capacity in Events, Competitions or other activities organised, convened or recognised by the NGB or any of its member or affiliate organisations or licensees (including any clubs, teams, associations or leagues), wherever held.
- 1.4 The First Respondent disputed that he was subject to the jurisdiction of the WABA. It was UKAD's primary position that the First Respondent was a boxing coach, but that, if he was not, he was an "*Athlete Support Personnel*" under (and therefore came under the jurisdiction of) the UKAD Rules.

1.5 At all relevant times, the Second Respondent was a licensed member of the WABA and bound by its Anti-Doping Rules.

1.6 The following constitute Anti-Doping Violations contrary to Article 2 of the UKAD Rules:

1.6.1 (in the case of an Athlete) Possession of one or more Prohibited Substances (UKAD Rules - Article 2.6.1);

1.6.2 (in the case of an Athlete Support Personnel) Possession of one or more Prohibited Substances (UKAD Rules - Article 2.6.3);

1.6.3 Trafficking or Attempting Trafficking in any Prohibited Substance (UKAD Rules - Article 2.7); and

1.6.4 Assisting, encouraging, aiding, abetting or covering up or any other type of complicity involving an anti-doping rule violation or any attempted anti-doping rule violation (UKAD Rules - Article 2.8).

1.7 The facts upon which the Charges are based can be summarised as follows:

1.7.1 The Second Respondent has been a registered member of the WABA since 20 September 2011, originally registering with Tredegar Amateur Boxing Club ("ABC"), and then transferring to Arthur's Gym. She has competed in amateur bouts since her registration in 2011 and was registered to compete in the WABA Elite Championships in March 2013. It is relevant to record that the Second Respondent's date of birth is 7 December 1993. Her 18th birthday, therefore, fell on 7 December 2011.

1.7.2 The First Respondent is the father of the Second Respondent, who is one of five siblings. All five of the First Respondent's children are involved in amateur boxing. Prior to his suspension, the First Respondent drove a minivan to transport his own and other children to WABA events and competitions. The First Respondent applied for a Disclosure and Barring Service ("DBS") check (essentially a criminal records check) on or about 2 April 2013. It is the understanding of the WABA that this application was with a view to becoming a Coach.

However, the WABA received no such formal application from or on behalf of the First Respondent. The DBS undertaken in relation to the First Respondent revealed a pending criminal trial which would have represented an obstacle to his being registered as a Coach with the WABA. On that basis, the First Respondent never obtained such registration, and the WABA instructed Tredegar ABC that the First Respondent was no longer permitted to transport children, other than his own, to and from boxing events, nor was he permitted to enter Tredegar ABC premises.

1.7.3 The Respondents live together at an address in Gwent. On 12 July 2012, Gwent Police executed a search warrant at that address. Material seized in consequence of the search included numerous Controlled Substances listed in the Misuse of Drugs Act 1971, and numerous Prohibited Substances listed in the World Anti-Doping Agency ("WADA") Prohibited List (namely anabolic steroids); various documents pertaining to the sale and shipment of "*recombinant growth hormone*" and "*chemical goods*", together with items typically regarded as the paraphernalia of drug dealers, such as dealer or "tick" lists (highlighting quantities and costs, etc.).

1.7.4 Gwent Police determined that a number of packages sent from China (Hong Kong) had been delivered to the Respondents' home address during May and June 2012, this being the particular period of the Police investigation and based upon dates recorded on some of the items seized.

1.7.5 Gwent Police undertook to arrest (and search the premises of) others linked to the apparent conspiracy to supply anabolic steroids, notably Mr James Broad (of Gloucestershire), and Mr Joseph Warren (of Eastbourne). The search of Mr Warren's property led to the seizure of a laptop computer. Data from the computer detailed numerous orders for steroids, including an order for steroids for "Phil" at the Respondents' home address.

1.7.6 The Gwent Police investigation revealed that between October 2011 and July 2012, the Second Respondent sent, via a "before 1 pm" special delivery service, a number of packages. The recipients of the packages were Mr Joe Warren, Mr Lewis Riordan, Mr Anthony Turner, Mr Robert Bristow and Mrs Lisa Morris.

1.7.7 Gwent Police took a statement from Mr Riordan on 13 November 2012, in which he indicated that he knew that Mr Broad had the nickname "Ghost". Ghost supplied Mr Riordan with steroids and eventually asked Mr Riordan if he would accept packages being posted to his home address in return for steroids. Mr Riordan indicated that the packages were always sent to him via a "before 1 pm" special recorded delivery service. The packages sent to Mr Riordan contained steroids and some contained cash. Mr Riordan also stated that under direction from Mr Broad he also sent packages to a person named "Phil" at an address which contained some of the elements of the Respondent's home address.

1.7.8 On 6 September 2012, Gwent Police took a statement from Mr Anthony Turner. He stated that he had received packages addressed to a "Tony" in Crawley. Mr Turner is a steroid user and indicated that the packages he received from the Respondents' home address were always steroids and never contained money.

1.7.9 On 12 November 2012, Gwent Police took a statement from Mrs Lisa Morris who stated that she knew Mr Broad and had started to receive packages for him in 2012. She stated that all the boxes she received were "big boxes" apart from the last one which she thought contained money. All of the packages were addressed to "Mr and Mrs Granville", the latter name being Mrs Morris' nickname.

1.7.10 Mrs Morris stated that Mr Broad told her that a supplier of his from Wales had been raided by the Police and that her address would be discovered. It was asserted by UKAD that the suppliers in question

were the Respondents, who were arrested on 12 July 2012 and charged on 7 March 2013.

1.7.11 During their police interviews on 12 July 2012 both Respondents maintained their right to silence. The Second Respondent's mobile phone was seized and the contact telephone number of Mr Broad was discovered in the contacts list on that phone.

1.7.12 On 2 December 2013, the Respondents appeared before Cardiff Crown Court. The First Respondent pleaded guilty to supplying anabolic steroids. The case against the Second Respondent was essentially withdrawn. Mr Broad pleaded guilty to offences linked to the supply of steroids. Whilst Mr Warren admitted to similar offences, he was not medically fit to participate in court proceedings.

2. **PROCEDURAL HISTORY**

2.1 UKAD is the National Anti-Doping Organisation for the UK. In accordance with Article 7.1 of the Anti-Doping Rules, UKAD has responsibility for results management and the investigation of potential Anti-Doping Rule Violations.

2.2 Based on the evidence gathered in connection with the Gwent Police investigation into the Respondents, UKAD determined that the Respondents had a case to answer in respect of charges that they had committed anti-doping rule violations. As required by UK National Anti-Doping Policy, this determination was independently reviewed, with UKAD's determination being upheld.

2.3 UKAD charged the Respondents with violations of the UKAD Rules by way of letters dated 19 February 2014 (the "Charge Letters"). Each Respondent was charged (see paragraph 1.6 above) with Possession of one or more Prohibited Substances (contrary to Article 2.6.3 of the UKAD Rules in the case of the First Respondent, and contrary to Article 2.6.1 of the UKAD Rules in the case of the Second Respondent), Trafficking or Attempting Trafficking of Prohibited Substances (contrary to Article 2.7 of the UKAD Rules), and Assisting, encouraging, aiding, abetting or covering up or any other type of complicity

involving an anti-doping rule violation or any attempted anti-doping rule violation (contrary to Article 2.8 of the UKAD Rules).

2.4 In their respective Charge Letters, the Respondents were informed that in accordance with WABA ADR Article 7.7.2, they were provisionally suspended with immediate effect from all competitions, events or other activities that are organised, convened, authorised or recognised by the WABA pending the resolution of the Charges. The Second Respondent was informed that as the holder of a WABA licence to compete she was subject to and bound to comply at all times with the WABA ADR, a copy of which was enclosed with her Charge Letter. The First Respondent was informed that as the holder of a WABA licence to coach he was subject to and bound to comply at all times with the WABA ADR, a copy of which was enclosed with his charge letter. The reference to the First Respondent being the holder of a WABA licence to coach was erroneous. UKAD nevertheless contended that the First Respondent was subject to the jurisdiction of the WABA and its anti-doping regime. Reference is made to paragraphs 5.1 to 5.6 below.

2.5 On 14 March 2014, the charges were referred to the National Anti-Doping Panel ("NADP") for adjudication pursuant to Article 8.1 of the UKAD Rules.

2.6 The UKAD Rules provide as follows:

8.1 Jurisdiction of the NADP

The following matters arising under these Rules shall be submitted for determination by the National Anti-Doping Panel (NADP) in accordance with the NADP Rules as amended from time to time:

8.1.1 A charge that one or more Anti-Doping Rule Violations have been committed... Where such charge is upheld, the NADP first instance Tribunal will determine what Consequence (if any) should be imposed, in accordance with and pursuant to Articles 9 and 10....

8.3 Rules of Evidence and Procedure

8.3.1 *The NADO shall have the burden of establishing that the Participant charged has committed the Anti-Doping Rule Violation(s) specified in the Notice of Charge. To meet that burden, the NADO must establish the Participant's commission of the Anti-Doping Rule Violation(s) charged to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegations that are made, the standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.*

....

8.3.3 *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.*

....

8.3.7 *The facts established by a decision of a Court or professional disciplinary Tribunal of competent jurisdiction that is not the subject of a pending appeal shall be irrebuttable evidence against the Participant to whom the decision pertained of those facts unless the Participant establishes that the decision violated principles of natural justice.*

8.3.8 *The hearing panel may draw an inference that is adverse to a Participant charged with commission of an Anti-Doping Rule Violation based on the Participant's refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or by telephone, as directed by the hearing panel) and to answer questions put by the hearing panel or the NADO.*

(Emphasis added)

2.7 In accordance with the NADP Procedural Rules ("the NADP Rules") the Chairman of the Tribunal issued directions for the procedural management of

this case on 25 March 2014 and in doing so directed that UKAD and the First Respondent file and cross-serve their respective submissions on the issue of the jurisdiction or otherwise of the WABA and therefore the NADP in relation to the case concerning the First Respondent. On 3 April 2014, UKAD filed and served on the First Respondent its submissions in relation to WABA's jurisdiction over the First Respondent. The First Respondent filed his submissions in relation to that issue on 9 April 2014. On that date the Chairman of the Tribunal ruled that in view of the content of the parties' respective submissions on jurisdiction concerning the First Respondent, he should remain a party to the proceedings and the issue of jurisdiction in his case should be dealt with by the full panel at the final hearing.

2.8 The Tribunal, made up of Mr Paul Gilroy QC, Mrs Carole Billington-Wood, and Dr Neil Townshend, held a Hearing on the Charges in Cardiff on 6 May 2014. In addition to the members of the Tribunal, the Hearing was attended by the Respondents, Dr Michael Graham (Solicitor, representing the Respondents), Mr Nick Cotter (of Counsel, presenting the case on behalf of UKAD), Mr Jason Torrance (Legal Officer, UKAD), Ms Stacey Shevill (Solicitor, UKAD), Mr Tony Jackson (Paralegal, UKAD), Mr James Thomas (Performance Director of the WABA), Detective Constable Michael Lumsden (Gwent Police), and Ms Jenefer Lincoln (Sport Resolutions (UK)).

2.9 This document constitutes the Final reasoned Decision of the Tribunal, reached after due consideration of the evidence heard and the submissions made by the parties attending at the Hearing. The Tribunal was unanimous in its findings.

2.10 At the Hearing on 6 May 2014, the Tribunal dealt with the issue of jurisdiction in relation to the First Respondent by way of a preliminary issue. On that issue the Tribunal heard oral evidence from Mr Thomas (see paragraph 2.8 above), who was called by UKAD. The First Respondent was offered the opportunity to give evidence but declined to do so. On inquiry from the Tribunal as to why the First Respondent declined to give evidence, Dr Graham stated that the First Respondent was not prepared to give a reason.

2.11 For the reasons stated below, the Tribunal determined that it had jurisdiction to deal with the charges concerning the First Respondent, and then went on to consider substantively the charges against both Respondents.

2.12 During the part of the hearing concerning the substantive determination of the charges, the Tribunal heard evidence from Detective Constable Lumsden (see paragraph 2.8 above), who was called by UKAD. The Respondents were each offered the opportunity to give evidence but declined to do so. On inquiry from the Tribunal as to why the Respondents declined to give evidence, Dr Graham stated that the Respondents were not prepared to give a reason.

3 **THE CHARGES**

3.1 Article 2 of the UKAD Rules provides that the following shall constitute anti-doping rule violations

2.6 Possession of Prohibited Substances and/or Prohibited Methods.

2.6.1 Possession by an Athlete at any time or place of a Prohibited Method, or of a Substance that is prohibited in Out-of-Competition Testing is an Anti-Doping Rule Violation under Article 2.6 unless the Athlete establishes that the possession is consistent with a TUE¹ granted in accordance with Article 4 or other acceptable justification.

.....

2.6.3 Possession by an Athlete Support Personnel at any time or place of a Prohibited Method, or of a substance that is prohibited in Out-of-Competition Testing, in connection with an Athlete, Event or training, is an Anti-Doping Rule Violation under Article 2.6, unless the Athlete Support Personnel establishes that the Possession is consistent with a TUE granted to an Athlete in accordance with Article 4 or other acceptable justification.

¹ Therapeutic Use Exemption. The TUE is of no materiality in these proceedings.

2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method.

2.8 Administration or Attempted administration to an Athlete at any time or place of a Prohibited Method, or of a substance that is Prohibited in Out-of-Competition Testing, or administration or Attempted administration to an Athlete In-Competition of any Prohibited Substance that is only prohibited In-Competition, unless the Athlete establishes that the administration or Attempted administration was consistent with a TUE granted in accordance with Article 4; or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an Anti-Doping Rule Violation or any Attempted Anti-Doping Rule Violation.

- 3.2 Appendix One to the UKAD Rules contains a "Definitions" Section, in which the following terms bear the following meanings:

"Possession":

The actual, physical Possession or the constructive Possession (which shall be found only if the Participant has exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists or if the Participant knew about the presence of the Prohibited Substance for Prohibited Method and he intended to exercise control over it. Provided, however there shall be no Anti-Doping Rule Violation based solely on Possession if, prior to receiving notification of any kind that he/she has committed an Anti-Doping Rule Violation, the Participant has taken concrete action demonstrating that he/she never intended to have Possession and has renounced Possession by explicitly declaring it to an Anti-Doping Organisation. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a Prohibition Substance or a Prohibited Method constitutes Possession by the Participant who makes the purchase.

"Trafficking":

Selling, giving, transporting, sending, delivering or distributing a Prohibited Substance or Prohibited Method (either physically or by any electronic or other means) by a Participant any third party; provided, however that this definition shall not include (a) the actions of bona fide medical personnel involving a Prohibited Substance used for genuine and legal therapeutic purposes or other acceptable justification; or (b) actions involving Prohibited Substances which are not Prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate that such Prohibited Substances were not intended for genuine and legal therapeutic purposes.

(Emphasis added).

"Attempt":

Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an Anti-Doping Rule Violation. Provided, however, there shall be no Anti-Doping Rule Violation based solely on an Attempt if the Participant renounces the Attempt prior to it being discovered by a third party not involved in the Attempt.

"Athlete Support Personnel":

Any coach, trainer, manager, agent, team staff, official, nutritionist, medical, paramedical personnel, parent or any other Person working with, treating or assisting an Athlete participating in or preparing for sports competition.

4 **MATERIAL REVIEWED**

4.1 For the purposes of the Hearing, the Tribunal and the parties were provided with copies of the following documents:

4.1.1 E-mail dated 27 March 2014 from the First Respondent to Tony Jackson at UKAD;

4.1.2 Submission of UKAD dated 3 April 2014 in relation to the question of jurisdiction concerning the First Respondent;

4.1.3 **"Sport: Law and Practice"** (Lewis & Taylor 3rd Edn - pp.366-369);

4.1.4 ***Modahl v British Athletics Federation [2001] [All ER (D)181(Oct);***

4.1.5 ***European Rugby Cup Decision of Appeal Committee in relation to Williams, Richards, Brennan, Chapman and Harlequins RFC (17 August 2009);***

4.1.6 E-mail exchange between the First Respondent on his behalf and on behalf of the Second Respondent, and Tony Jackson (Paralegal, UKAD) dated 25 April 2014;

4.1.7 Case Management Conference Directions Order dated 25 March 2014;

4.1.8 E-mail exchange between Sport Resolutions (UK) and the parties dated 26 March to 16 April 2014);

4.1.9 First Respondent's Notice of Charge dated 19 February 2014;

4.1.10 Second Respondent's Notice of Charge dated 19 February 2014;

4.1.11 Letter of Referral to the NADP dated 14 March 2014;

4.1.12 Second Respondent's response to the Notice of Charge dated 27 March 2014;

4.1.13 UKAD Schedule of suggested admitted facts dated 17 April 2014;

4.1.14 Second Defendant's further response to the Notice of Charge dated 25 April 2014;

4.1.15 Respondents' Schedule of suggested admitted facts dated 25 April 2014;

4.1.16 Witness Statement dated 29 April 2014 of Detective Constable Michael Peter Lumsden together with Exhibit;

4.1.17 Witness Statement dated 29 April 2014 of Detective Constable Robert Ricketts;

- 4.1.18 Witness Statement dated 29 April 2014 of Mr James Thomas (Performance Director of the WABA);
- 4.1.19 Witness Statement dated 8 January 2014 of Mr Jason Torrance (Legal Officer, UKAD) plus Exhibit;
- 4.1.20 Witness Statement dated 29 April 2014 of Mr Tony Jackson (Paralegal, UKAD);
- 4.1.21 WABA adoption of the UKAD Rules with supplemental provisions;
- 4.1.22 UKAD Rules;
- 4.1.23 WADA 2012 Prohibited List;
- 4.1.24 WADA 2013 Prohibited List;
- 4.1.25 WADA 2014 Prohibited List;
- 4.1.26 Decision of the AAA Panel in ***United States Anti-Doping Agency v Johan Bruyneel, Pedro Celayalezane and Jose Marti Marti*** dated 21 April 2014, and
- 4.1.27 ***UKAD v Dean Colclough***, (Final Decision of the NADP dated 30 January 2014).

5 **THE TRIBUNAL'S DECISION ON THE ISSUE OF JURISDICTION IN RELATION TO THE FIRST RESPONDENT**

5.1 Article 1.2.2 of the UKAD Rules states:

To be a member of the NGB and/or of member or affiliate organisations or licensees of the NGB, or to be eligible to participate (in the case of an Athlete) or assist any participating Athlete (in the case of Athlete Support Personnel) in any Event, Competition or other activity organised, convened or authorised by the NGB or any of its member or affiliate organisations or licensees, a person must agree to be bound by and to comply with these Rules. Accordingly, by becoming such a member or by so participating or assisting,

an Athlete/Athlete Support Personnel (as applicable) shall be deemed to have agreed:

a. to be bound by and to comply strictly with these Rules (without prejudice to any other anti-doping rules applicable to him/her);

b. to submit to the authority of the NGB and of the NADO to apply, police and enforce these Rules;

.....

d. to submit to the exclusive jurisdiction of any NADP first instance tribunal convened under these Rules to hear and determine charges and related issues arising under these Rules;

e. to submit to the exclusive jurisdiction of any NADP appeal tribunal and/or CAS Panel convened under these Rules to hear and determine appeals made pursuant to these Rules;.....

(Emphasis added).

5.2 UKAD contended that jurisdiction could be established in relation to the First Respondent either with or without a direct contractual link.

5.3 UKAD submitted that such a contractual link can arise in a number of situations:

5.3.1 where the individual concerned is a member of the governing body;

5.3.2 where the individual concerned is not a member of the governing body, but is a member of a club or other organisation within the sport that is, in turn, a member of the governing body;

5.3.3 where the individual signs a competition entry form and/or licence which includes an express declaration that he/she submits to the jurisdiction of the governing body and agrees to be bound by and to comply with its rules and regulations, and

- 5.3.4 where the individual signs a licence with and/or gains an accreditation from the governing body to actively participate in the sport, and such licence/accreditation expressly incorporates the rules and regulations of the governing body by which the individual is to be bound.
- 5.4 UKAD argued in the alternative that the lack of a direct contractual link between a governing body and an individual, requiring the individual to comply with the governing body's rules, was not fatal to the governing body's ability to exercise jurisdiction over that individual. UKAD submitted that a contract can be implied where the individual by his conduct has agreed to be bound by the relevant rules, whether by participating in events to which those rules applied, otherwise participating in the activities organised by the governing body or being shown to have knowledge of and actively complied with the rules in some way.
- 5.5 The Tribunal considered the definition of the term "*Athlete Support Personnel*" under the UKAD Rules (see paragraph 3.2 above), and concluded that there was no proper or satisfactory evidence that the First Respondent is or was a WABA registered coach. The Tribunal found that the First Respondent's involvement in the sport of boxing amounted to transporting his own and (prior to his suspension) other children to WABA events and competitions. The First Respondent has five children of whom the Second Respondent is one. All five children are involved in amateur boxing. It is right to say, therefore, that the First Respondent's involvement in the sport as a parent is therefore significant and includes accompanying them to training and competitions. The Tribunal found as a fact and there was no serious challenge to this aspect on behalf of the First Respondent, namely that he has performed the function of transporting his own children and other young boxers to events and competitions at various boxing clubs over the years, including Cwmcarn ABC, Tredegar ABC, and his children's current club, Jamie Arthur's Gym.
- 5.6 The Tribunal was unanimously satisfied that such was the course of the First Respondent's dealings with the sport of amateur boxing in Wales, with

particular regard to his involvement with the Second Respondent in that sport, that he fell within the definition of "Athlete Support Personnel".

6 **DETERMINATION OF THE CHARGES CONCERNING THE FIRST RESPONDENT**

Possession of Prohibited Substances

6.1 UKAD's position was that, pursuant to Article 8.3.7 of the UKAD Rules (see paragraph 2.6 above), the First Respondent's plea of guilty to and subsequent conviction of the substantive charge of supplying controlled drugs to another, at the Crown Court on 20 November 2013, amounted to irrebuttable evidence that the First Respondent clearly (a) had possession of, and (b) trafficked steroids contrary to Articles 2.6.3 and 2.7 of the UKAD Rules respectively.

6.2 The charge and conviction against the First Respondent were based upon the substances seized by the police on 12 July 2012, which, following police forensic analysis, included the following Prohibited Substances:

- 722 tablets found to contain **Methyltestosterone** (found in two batches).
- 53 tablets found to contain **Oxymetholone**.
- 22 tablets found to contain **Clomiphene**.
- 1948 tablets found to contain **Stanozolol** (found in five batches, within 22 containers and 10 packets).
- 25 tablets found to contain **Mesterolone**.
- 10 x 10ml vials found to contain **Testosterone, Nandrolone** and **Trenbolone**.
- 36 x 10ml vials found to contain **Testosterone** (found in three batches).
- 15 x 10ml vials found to contain **Nandrolone**.
- 7 x 10ml vials found to contain **Dihydrotestosterone** and **Testosterone**.

- 15 x 10ml vials found to contain **Trenbolone**.

6.3 The Tribunal was comfortably satisfied that the police search and seizure of Prohibited Substances from the First Respondent's home address, together with his guilty plea to the criminal charge in the Crown Court, established Possession of Prohibited Substances. The seizure by police officers of dealer/tick lists provided ample proof that the First Respondent had clear control and possession of a significant quantity of Prohibited Substances. The clear evidential picture was supported and amplified by documents seized from the First Respondent's home address, such as documentation with Chinese writing that referred to "*recombinant growth hormone*", documents pertaining to certificates for transportation, and a DHL Express Waybill from Shanghai addressed to "*Mr Phillippe*", that detailed the home address of the First Respondent. The evidence contained in the police statement of Lorna Elliot demonstrated that a number of packages were sent to the First Respondent's home address during May and June 2012. The package delivery history and seized documents established that the First Respondent procured Prohibited Substances from China. In the circumstances, the Tribunal was comfortably satisfied that the First Respondent had committed an Anti-Doping Rule violation contrary to Article 2.6.3 of the UKAD Rules.

Trafficking of Prohibited Substances

6.4 The Tribunal was comfortably satisfied:

- 6.4.1 that the quantity and values of the substances discovered, in combination with the documentation seized, further supported the contention that the items were destined to be trafficked for commercial gain;
- 6.4.2 that the possession of the seized Prohibited Substances by the First Respondent amounted to a substantial step in a course of conduct planned to culminate in the commission of the Anti-Doping Rule Violations of attempted trafficking and assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any attempted anti-doping rule violation;

- 6.4.3 that the packages sent by the Second Respondent, to known steroid users, combined with the Crown Court guilty plea of the First Respondent, established a clear pattern of the trafficking of Prohibited Substances;
- 6.4.4 that the presence of the "tick list" added clear weight to the suggestion that this was a commercial venture linked to trafficking, and
- 6.4.5 that the First Respondent's plea of guilty to the substantive charge of conspiracy to supply anabolic steroids provided irrebuttable evidence that he was trafficking (or had trafficked) Prohibited Substances.
- 6.5 Some of the recipients of the packages sent by the Second Respondent commented on the role of the First Respondent in trafficking. The statement of Mrs Morris indicated that Mr Broad had stated that "*a supplier of his from Wales had been raided by police.*"
- 6.6 The statement of Mr Riordan further indicated that he received packages from Wales and indeed sent packages to a man in Wales called "*Phil*" at the First Respondent's address.
- 6.7 The evidence of Mr Turner (aka Tony in Crawley) painted a clear chain of evidence that packages sent from the occupants of the First Respondent's home address were of Prohibited Substances, namely anabolic steroids.
- 6.8 Whilst there was no direct evidence of the First Respondent personally trafficking Prohibited Substances, his own confession of supplying controlled drugs which had been identified as numerous Prohibited Substances, together with the evidence detailed above, inexorably led to the Tribunal being comfortably satisfied that he had committed an Anti-Doping Violation contrary to Article 2.7 of the UKAD Rules.
- 6.9 In terms of the structure of this Decision, it will be beneficial to consider next the Charges relating to the Second Respondent, before dealing with the case concerning both Respondents in relation to the Charges under Article 2.8 of the UKAD Rules.

7 DETERMINATION OF THE CHARGES CONCERNING THE SECOND RESPONDENT

Possession of Prohibited Substances

- 7.1 UKAD pointed to the definition of "Attempt" contained within Appendix One to the UKAD Rules (see paragraph 3.2 above).
- 7.2 UKAD submitted that the Second Respondent had "*constructive possession*" (as defined at paragraph 3.2 above) of the Prohibited Substances found in her family home during the Gwent Police search of the property. For constructive possession to be made out, the Second Respondent would have had to have exercised exclusive control over the Prohibited Substances (formed, for example when she supplied them to others, notably Mr Turner). Alternatively, she would have had to know about the presence of the Prohibited Substances in her home and had the intention to exercise control over them.
- 7.3 The Tribunal concluded that the presence in the family home of such a large amount of Prohibited Substances was such that the Second Respondent simply must have been aware of their existence. Items from China were being delivered to the family home and shipping documents and associated paraphernalia were seized by Gwent Police. These Prohibited Substances, documents and associated paraphernalia were found at various locations throughout the family home, including in plain view on the kitchen worktops, windowsill and in the fridge, the living room and various bedrooms. This made it entirely implausible that the Second Respondent was not aware of the existence of the Prohibited Substances and the nature of what essentially amounted to the family business of anabolic steroid supply.
- 7.4 The number of packages sent by the Second Respondent clearly demonstrated her integral role in trafficking the Prohibited Substances. The Tribunal was comfortably satisfied that, given the descriptions of the packages received, the Second Respondent must have been aware that some of the packages did not contain money. In any event, regardless of the Second Respondent's knowledge of the content of those packages or otherwise, intent is not a requisite element for the Anti-Doping Rule Violation

of Trafficking.

7.5 The Second Respondent had to inform the Post Office of the suggested amounts of money contained within the packages when she was sending the items through the post. It is submitted that this demonstrated either that the Second Respondent was lying to cover the true nature of the items she was posting, or, if she was sending such large amounts of cash, that it is implausible that she would not have known that such sums would have been linked to the purchase or sale of Prohibited Substances, given her father's obvious and open involvement.

7.6 The fact that Mr Anthony Turner in his statement to the police confirmed that he received packages from Wales establishes that the Second Respondent sent a package to Mr Turner on 11 May 2012 and never received money but only steroids demonstrates that the Second Respondent was dishonest as to the true nature of the package she sent to Mr Turner. This fact added weight to her knowledge and possession of the Prohibited Substances before she posted the items to others.

7.7 The Second Respondent's mobile telephone was seized upon her arrest. Examination of the telephone detailed within the contacts list a link to Mr James Broad who was implicated by Gwent Police as playing a significant role in the supply of anabolic steroids. The presence of this contact detail in the Second Respondent's phone highlighted that she knowingly played a significant role in the chain of supply and supported the contention that she had possession of Prohibited Substances.

7.8 In the circumstances, the Tribunal was comfortably satisfied that the Second Respondent had committed an Anti-Doping Rule violation contrary to Article 2.6.1 of the UKAD Rules.

Trafficking of Prohibited Substances

7.9 The Tribunal accepted the submission of UKAD that on the basis that the Second Respondent had the requisite knowledge and control of the Prohibited Substances in order to make out the charge of possession contrary to Article

2.6.1 of the UKAD Rules, then the Second Respondent violated Article 2.7 of the UKAD Rules upon transporting them to the Post Office and sending/delivering/distributing them. The Tribunal accepted the further submission of UKAD that the trafficking charge was not dependent on the possession charge being upheld and could, on the facts alone, be made out.

7.10 Post Office records show that the Second Respondent sent packages on the following dates to the following recipients:

- October 2011 to "*Addresses in Bristol details not known*"
- 10 November 2011 to "*Addresses in Bristol details not known*";
- 30 November 2011 to "*Joe Eastbourne BN22 8EQ*";
- 9 January 2011 to "*Joe Eastbourne BN22 8EQ*";
- 8 May 2012 to "*Joe Eastbourne BN22 8EQ*";
- 11 May 2012 to "*Lewis Wooton-Under Edge GL12 8BJ*";
- 11 May 2012 to "*Tony Crawley RH11 7JO*";
- 11 May 2012 to "*R Bristow Eastbourne BN21 1LR*";
- 11 May 2012 to "*Joe Eastbourne BN22 8EQ*";
- 7 June 2012 to "*Mr Smith Eastbourne*";
- 9 June 2012 to "*Mr Granville BS37 4FL*".

7.11 The Tribunal was comfortably satisfied that the Second Respondent had committed an Anti-Doping Rule violation contrary to Article 2.7 of the UKAD Rules.

8 **AIDING AND ABETTING**

8.1 The Tribunal was comfortably satisfied:

8.1.1 that the First Respondent procured the Prohibited Substances before

getting his daughter, the Second Respondent, to send them on via the postal system;

8.1.2 that the actions of the First Respondent in taking possession of the Prohibited Substances before passing them on to the Second Respondent who trafficked them on to others falls foul of the violation under Article 2.8 of the UKAD Rules;

8.1.3 that both Respondents must have been complicit and had full knowledge of the respective role played by the other for the following reasons:

- they live in the same property;
- they are father and daughter;
- the amount of Prohibited Substances recovered from their home address (seemingly found in plain sight in a number of different locations throughout the house);
- the number of packages sent by the Second Respondent through the postal system, and
- the fact that it would have been implausible for a daughter not to ask questions of her father in relation to the packages sent, given the descriptions she must have given the Post Office of the significant amounts of money being sent through the post.

8.2 The Tribunal accepted the submission of UKAD that the Second Respondent trafficked Prohibited Substances, and further that even if some of the packages she sent contained the sums of money suggested then it would be implausible that she would not have known these sums were linked to the trafficking of Prohibited Substances.

8.3 The telephone link between the Second Respondent and, notably, Mr Broad, another co-Defendant in the criminal trial linked to the supply of anabolic steroids, clearly demonstrated that the Second Respondent was linked to

others in the chain of supply.

8.4 In the circumstances, the Tribunal was comfortably satisfied that each of the Respondents committed an Anti-Doping Rule violation contrary to Article 2.8 of the UKAD Rules.

9 **CONSEQUENCES**

9.1 Article 10.2 of the UKAD Rules provides as follows:

For an Anti-Doping Rule Violation under... Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method) that is the Participant's first violation, a period of Ineligibility of two years shall be imposed, unless the conditions for eliminating or reducing period of Ineligibility (as specified in Article 10.4 and/or Article 10.5) or for increasing the period of Ineligibility (as specified in Article 10.6) are met.

9.2 Article 10.3.3 of the UKAD Rules states:

For an Anti-Doping Rule Violation under Article 2.7 (Trafficking or Attempted Trafficking) ... that is the Participant's first violation, a period of Ineligibility of at least four (4) years but up to a lifetime shall be imposed, unless the conditions for eliminating or reducing the period of Ineligibility set out in Article 10.5 are met; provided that:

a. An Anti-Doping Rule Violation involving a Minor shall be considered a particularly serious offence, and, if committed by Athlete Support Personnel in relation to Anti-Doping Violations other than those involving Specified Substances, shall result in lifetime Ineligibility for such Athlete Support Personnel.....

9.3 UKAD made it clear that notwithstanding that it was pursuing these charges against the Respondents as one anti-doping rule violation, it nevertheless contended that the fact that more than one offence and multiple Prohibited Substances were involved should be considered in determining where on the scale of between four years and a lifetime ban the sanction should be set. UKAD referred to Article 10.7.4(a) of the UKAD Rules, which states that

multiple violations that cannot be charged separately (because one is committed before notice of the other is received)

"may be considered as a factor in determining aggravated circumstances under Article 10.6".

9.4 UKAD submitted that although Article 10.6 of the UKAD Rules (relating to "aggravating circumstances") does not directly apply to anti-doping rule violations involving Trafficking, the principle of "aggravating circumstances" discussed under Article 10.7.4(a) of the UKAD Rules could and should be applied when determining the length of sanction to be imposed.

9.5 UKAD cited the Decision of the NADP in the matter of **Dean Colclough**, who was banned for eight years for the possession and trafficking of multiple prohibited substances through his business website. Mr Colclough's business was not an illegal enterprise in the eyes of the law and he did not face criminal sanction. UKAD submitted that given the nature of the offences committed by the Respondents, the fact that they were involved in a large scale steroid importation and distribution criminal organisation, and the seriousness of the substances involved, those being multiple varieties in large quantities of steroids, the sanction imposed upon the Respondents should be greater than that imposed upon Mr Colclough.

Conclusions in relation to Consequences

9.6 No mitigation was offered by or on behalf of either Respondent. Whether any particular mitigation existed in either case is impossible to say, given the Respondents' silence on the matter. The Tribunal therefore arrived at its conclusions in relation to Consequences without any input being offered as to that aspect by either Respondent.

9.7 On the Tribunal's findings, the First Respondent involved the Second Respondent in the sending of packages containing Prohibited Substances on three occasions before her 18th birthday, namely an unspecified date in October 2011, 10 November 2011 and 30 November 2011 (see paragraph 7.10 above). On the basis (a) that the First Respondent therefore involved

the Second Respondent in an Anti-Doping Rule Violation of Trafficking within the meaning of Article 2.7 of the UKAD Rules at a time when she was a minor, (b) that the substances being trafficked were substances other than Specified Substances, and (c) that at the material time the First Respondent's status with the UKAD Rules was as an "Athlete Support Personnel", the sanction which the Tribunal imposes on the First Respondent is one of lifetime Ineligibility.

9.8 As far as the Second Respondent is concerned, this is her first violation. She was very young at the relevant time. The Tribunal takes the view that she will inevitably have been subjected to the considerable influence of her father in becoming involved in the matters which are the subject of these proceedings. The sanction imposed upon the Second Respondent by the Tribunal is one of four (4) years Ineligibility.

10 **SUMMARY**

10.1 The unanimous conclusion of the Tribunal was that UKAD had established to the Tribunal's comfortable satisfaction that both Respondents had control, knowledge and integral roles in the possession, trafficking and aiding and abetting of anti-doping violations in relation to multiple Prohibited Substances over a period of time.

10.2 Accordingly, for the reasons stated above, the Tribunal makes the following Decision:

10.2.1 In the case of the First Respondent, Doping Offences contrary to Articles 2.6.3, 2.7 and 2.8 of the UKAD Rules have been established.

10.2.2 The First Respondent shall be banned for life from participating in any capacity in any competition or other activity (other than authorised Anti-Doping Education or Rehabilitation programmes) organised, convened or authorised by the WABA or any body that is a member of, or affiliated to, or licenced by the WABA.

10.2.3 In the case of the Second Respondent, Doping Offences contrary to Articles 2.6.1, 2.7 and 2.8 of the UKAD Rules have been established.

10.2.4 The Second Respondent shall be banned for a period of four years from midnight on 19 February 2014 from participating in any capacity in any competition or other activity (other than authorised Anti-Doping Education or Rehabilitation programmes) organised, convened or authorised by the WABA or any body that is a member of, or affiliated to, or licenced by the WABA.

11 **RIGHTS OF APPEAL**

11.1 In accordance with Article 13.4 of the UKAD Rules, the following parties shall have the right to appeal against this decision to the NADP:

11.1.1 the Respondents;

11.1.2 the WABA;

11.1.3 UKAD;

11.1.4 the International Federation, and

11.1.5 WADA.

11.2 In the absence of any such appeal, this decision shall be final and binding on all of the above Persons.

11.3 The Respondents, the WABA and UKAD have 21 days from receipt of this decision within which to lodge an appeal.

11.4 The International Federation has 10 days from receipt of this decision to request the file and then 21 days after receipt of that file to lodge an appeal.

11.5 WADA has the later of:

11.5.1 21 days after the last day that any other party could appeal (including the International Federation), or

11.5.2 21 days after WADA request the file,
within which to lodge an appeal.

11.6 Any party wishing to exercise such rights must file a Notice of Appeal with the
NADP in accordance with the time limits prescribed above.



Paul Gilroy

Paul Gilroy QC

**Carole Billington-Wood
(Specialist Member)**

**Dr Neil Townshend
(Specialist Member)**

Signed on behalf of the Tribunal on 28 May 2014



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