SPORTS TRIBUNAL of New Zealand

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MEDIA RELEASE

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Sports Tribunal suspends powerlifter for anti-doping violation

The Sports Tribunal has suspended powerlifter, Rangimaria Brightwater-Wharf, for six months because of an anti-doping violation involving the prohibited substance dimethylpentylamine.

Ms Brightwater-Wharf tested positive for dimethylpentylamine after competing in the 2010 North Island Powerlifting Championships. She admitted the violation and gave evidence that the violation was accidental and due to her, on the morning of the competition, taking a capsule of a supplement called "Ripped Freak" which unknown to her contained dimethylpentylamine. The supplement's package did not list dimethylpentylamine as an ingredient. It listed geranium seed extract as an ingredient but she did not know that dimethylpentylamine could be a product of geranium seed. Ms Brightwater-Wharf worked in a health store selling the product and in 2009 she made inquiries to the distributor whether it contained any prohibited substances. The distributor told her that the manufacturer had advised that it did not contain prohibited substances.

Although not on the 2009 List of Prohibited Substances, athletes were found guilty in 2009 by overseas bodies of anti-doping violations for testing positive to dimethylpentylamine on the basis it was sufficiently related to other listed prohibited substances. Dimethylpentylamine was explicitly added to the 2010 Prohibited List. The penalty for a violation with this substance is two years' suspension unless the athlete can show no fault or no significant fault.

After the Tribunal hearing, but before the Tribunal made its decision, the Tribunal was advised that the World Anti-Doping Authority (WADA) was reclassifying dimethylpentylamine as a "specified substance" in the 2011 Prohibited List. This meant the penalty for this substance will change from a mandatory two years' suspension to a potentially lesser penalty which can range from a warning only up to a maximum of two year's suspension. However, the 2011 Prohibited List does not come into law until 1 January 2011. Despite this, WADA advised that for "practical reasons" it thought any existing cases involving the substance could treat the substance as a "specified substance" even though it did not become one until 2011, but acknowledged that sanctioning bodies were free to decide this as they wished.

The Tribunal therefore had a further hearing to decide whether it should treat the substance as a specified substance and, if so, what should the appropriate penalty be? The Tribunal noted two recent overseas cases that treated dimethylpentylamine (or methylhexaneamine as it is also known) as a specified substance, resulting in penalties of four and six months suspension.

The Tribunal decided to deal with the violation as if it was for a specified substance. The Tribunal stated: "*In the exceptional circumstances of the position taken by WADA and the fact that favourable decisions are being made respecting athletes in other jurisdictions, fairness to New Zealand athletes justifies this Tribunal in applying that same criteria*".

The Tribunal accepted that Ms Brightwater-Wharf did not know the supplement contained a prohibited substance and did not take it for performance enhancing reasons, but rather to "lift her mental state", and noted she was the only competitor in her class. The Tribunal accepted that she was honest and had strong values about competing with a "clean" body. However,

there is a heavy onus on athletes under the Sports Anti-Doping Rules. An athlete is responsible for her decision to take any substance and the Rules imply utmost caution.

Ms Brightwater-Wharf had received anti-doping education and knew that Drug Free Sport New Zealand (DFS) operates a help line that athletes can use to check substances but she did not use it. While she had previously made her own inquiries to the distributor, her failure to use the DFS advisory service was significant in assessing her fault. Particularly in the case of athletes who have participated in the DFS programme, and have been supplied with access details to the DFS advisory services, there is a degree of fault when no inquiry is made (except in true emergency situations). Although an inquiry on the Saturday morning of the competition may not have resulted in specific information about the presence of the prohibited substance, she would have been advised not to take the capsule in the absence of certainty. She could also have inquired earlier.

The Tribunal stated: *"The Tribunal members understand how the apparent needs of a particular moment can lead to a decision such as the one made by Ms Brightwater-Wharf. However, it is important that athletes who are in the programme do recognise that their first instinct, for their own protection, must be to be safe and, so far as possible, to be certain. It is important that the Tribunal reinforces that message and the service which Drug Free Sport does provide".*

The Tribunal considered comparable anti-doping decisions of its own and overseas bodies concerning athletes inadvertently taking prohibited specified substances (including cases where doctors had mistakenly prescribed athletes prohibited substances, which the present case was seen as more serious than). The Tribunal concluded that a suspension of six months was appropriate in this case. This was to commence from the date of her provisional suspension on 27 July 2010.

The decision in this case will be made available for download from the website of the Sports Tribunal (www.sportstribunal.org.nz). See *Drug Free Sport New Zealand v Rangimaria Brighter-Wharf* (ST 14/10). Copies can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sportstribunal.org.nz).