

**BEFORE THE SPORTS DISPUTES TRIBUNAL  
OF NEW ZEALAND**

**SDT/01/06**

Anti-Doping Violation Application

**BETWEEN**

**NZ FEDERATION OF BODY BUILDERS INC.**

**Applicant**

**AND**

**NAERA JOHNSON**

**Respondent**

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**DECISION OF TRIBUNAL  
1<sup>st</sup> March 2006**

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**Present – no formal hearing:**

**Tribunal Members Participating:**

Hon Barry Paterson, QC (Chairman),  
Kit Toogood QC  
Ron Cheatley

Registrar: Brent Ellis

## **INTRODUCTION**

1. Naera Johnson is a member of the New Zealand Federation of Body Builders Inc. (“NZFBB”).
2. A sample was provided by Ms Johnson at the Central North Island Body Building Championship in Hamilton on 22 October 2005, and the New Zealand Sports Drug Agency (“the Agency”) issued a Notice of Determination and Entry in the Sports Drug Register dated 5 December 2005, that Miss Johnson had committed a doping infraction.
3. The sample taken from Ms Johnson contained the substance Clenbuterol which is banned by the world Anti-Doping Code 2005 Prohibited List under S1-Anabolic agents.
4. The NZFBB submitted an application for Anti-Doping Rule Violation proceedings, dated 16 December 2005, to this Tribunal. This was received on 10 January 2006.
5. The Tribunal sent Ms Johnson a notice to that effect on 10 January 2006, and on 18 January 2006, by fax, she acknowledged receipt of the notice, and advised as follows:

*“I admit to the anti doping rule violation stated in the application and do not wish to participate in the hearing. I acknowledge the Tribunal may impose penalty on me without holding a hearing with the parties and I will be notified of any such penalty at the above address for service”. (address for service provided).*

6. Mr Ellis as registrar of this Tribunal advised Ms Johnson by email of 18 January 2006 that this Tribunal’s proceedings would commence.

## **THE NZFBB CONSTITUTION**

7. Clause 20.1 of the NZFBB Constitution provides that all matters relating to doping will be dealt with in accordance with the Federation’s Anti-Doping Rules, Regulations and Bylaws. The NZFBB has an anti-doping policy. It provides in paragraph 7.1 that *“all persons to whom this policy applies may be subject to investigation and sanction under this policy if they commit or are party to any one or more of the Anti-Doping Rule Violations set out in Article 2 of the WADA Code”*.

8. Paragraph 10.1 of the Policy provides that every person who commits an Anti-Doping Rule Violation is liable to sanction in accordance with Article 10 of the WADA Code.
9. Paragraph 12 deals with hearings in respect of such Anti-Doping Rule Violations. The athlete has a right to a fair hearing as detailed in Article 8 of the WADA Code, the matter must be referred to this Tribunal for a hearing, and the Tribunal will accept as a proven fact a positive Test Result determined by a test conducted by the Agency in accordance with its statutory provisions. If this Tribunal determines that an Anti-Doping Rule Violation has been committed, the Tribunal shall impose sanctions in accordance with paragraph 10 of the Policy which adopts the sanctions in Article 10 of the WADA Code.
10. It follows from these provisions that the Tribunal accepts as a fact the determination of the Agency and is required after a fair hearing to impose sanctions in accordance with Article 10 of the WADA Code.

#### **THE WADA CODE**

11. The relevant provision of Article 10 of the WADA Code is 10.2, part of which provides:

*“Except for the specified substances identified in Article 10.3, the period of ineligibility imposed for a violation of Article 2.1 (Presence of Prohibited Substance) shall be:*

  - *First Violation: 2 years’ ineligibility”.*
12. In this case the Prohibited Substances are not Specified Substances under Article 10.3. The violation is of Article 2.1 which deals with the presence of a prohibited substance in an athlete’s bodily specimen.
13. Under Article 10.2 the athlete *“shall have the opportunity in each case, before a period of ineligibility is imposed, to establish the basis for eliminating or reducing the sanction as provided in Article 10.5.”*
14. Article 10.5 deals with concepts of “no fault or negligence” and “no significant fault or negligence’. Ms Johnson did not seek to rely on this provision.
15. Article 10.8 of the WADA Code provides that the period of ineligibility shall start on the date of the hearing decision providing for ineligibility.

## DECISION

16. Ms Johnson has admitted the Anti-Doping Violation and under Article 10.2 of the WADA Code, the mandatory sanction is a period of two years' ineligibility for a first violation. The athlete has advanced nothing to this Tribunal to warrant any lesser sanction in accordance with Article 10.5 of the Code. It follows that the sanction in Ms Johnson's case is a period of ineligibility for two years.
17. Under Article 10.8 of the WADA Code, the period of ineligibility shall commence from the date of this Decision.
18. The Tribunal's Decision is that Ms Johnson be ineligible (i.e. suspended) for a period of two years from the date of this Decision.
19. For avoidance of doubt, it is noted that under Article 10.9 of the WADA Code Ms Johnson is ineligible to participate in any capacity in a competition or activity (other than authorised anti-doping education or rehabilitation programs), authorised or organised by NZFBB or any other signatory to the WADA Code.



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**Hon B J Paterson QC**  
**Chairman of Sports Disputes Tribunal**  
**1 March 2006**