

**BETWEEN**                      **BASKETBALL NEW ZEALAND INCORPORATED**  
  
   **Applicant**

**AND**                              **SYLVESTER SEAY**  
  
   **Respondent**

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**PROVISIONAL SUSPENSION DECISION  
DATED 8 June 2011**

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**Hearing:**                      31 May 2011 by telephone conference

**Tribunal:**                      Alan Galbraith QC (Deputy Chairperson)  
   Anna Richards  
   Chantal Brunner

**Present:**                      Sylvester Seay, athlete  
   Andrew McCormick, counsel for Sylvester Seay  
   Tim Hamilton, Basketball New Zealand  
   Jayne Kernohan, Drug Free Sport New Zealand

**Registrar:**                      Brent Ellis

1. Basketball New Zealand Incorporated has brought an application for provisional suspension arising out of an adverse analytical finding for a metabolite of cannabis arising out of an in-competition drug test on 16 April 2011.
2. Andrew McCormick as counsel for Sylvester Seay indicated that there will be a no fault defence in respect to the substantive application to be brought by Drug Free Sport New Zealand. In that circumstance Mr McCormick asked the Tribunal to consider the possibility of not imposing a provisional suspension.
3. In the circumstances the Tribunal is satisfied that there is a prima facie case. The Tribunal is satisfied that it is appropriate under Rule 12.8 of the Sports Anti-Doping Rules to impose a provisional suspension. If ultimately Mr Seay succeeds in his no fault defence then that suspension will terminate. If that defence does not succeed then Mr Seay will get the benefit of the period of provisional suspension.
4. Accordingly a provisional suspension order is made commencing from 31 May 2011.
5. After discussion it was agreed that the hearing of the substantive application by Drug Free Sport New Zealand would take place at 10am on Friday 17 June 2011 in Auckland. Mr McCormick indicated that he would attend in person but Mr Seay will obviously have to attend by telephone. The hearing venue will be advised in due course.

Dated: 8 June 2011



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**A R Galbraith QC**  
**(Deputy) Chairperson**