SPORTS DISPUTES
Tribunal of New Zealand

**MEDIA RELEASE**

**8 May 2006**

The following is a summary of the decision of the Sports Disputes Tribunal of New Zealand in the case of **Softball New Zealand v Curtis Ames** (SDT/10/06). This is not the written decision of the Tribunal for the purposes of its rules.

## Tribunal has warned and reprimanded softball player for cannabis violation

The Sports Disputes Tribunal has reprimanded and warned softball player Curtis Ames for committing an anti-doping violation involving cannabis.

Mr. Ames tested positive for cannabis after representing Hutt Valley in the Men's Provincial Cup in Palmerston North on 7 January 2006. Mr. Ames is a Canadian citizen who came to New Zealand for the softball season. He has since returned to Canada.

## Circumstances of drug use

Mr. Ames admitted the violation and in a letter to the Tribunal stated that:

- he smoked cannabis in December 2005 prior to the tournament in January
- the cannabis occurred as part of celebrations over the Christmas period
- the cannabis use was for recreational purposes only and was in no way intended to enhance his softball performance
- he does not smoke marijuana or take any other illegal drugs on a regular basis
- he regretted his actions and hoped that this would not jeopardise his softball future.

## Tribunal able to decide case although player failed to participate in the Hearing

- Mr Ames returned to Canada before the Hearing.
- The Hearing took place by way of teleconference and Mr Ames was given appropriate notice and provided with the opportunity to participate from Canada.
- However, Mr Ames failed to participate in the Hearing.
- The Tribunal ruled that it could proceed and decide the case on the basis of the information before it.

## Principles applied

The Tribunal applied the principles it had outlined in the recent case of *Softball New Zealand v Justin Karaitiana* (SDT 12/06, 28 April 2006). These apply to an athlete committing a first anti-doping violation involving cannabis.

If the athlete satisfies the Tribunal that there was no intention to enhance sporting performance, the likely penalty will be a reprimand and warning provided the Tribunal is also satisfied that:

- the cannabis use was unrelated to the sport
- the cannabis use by the athlete did not represent any danger to other competitors, officials or members of the public and
- there are no other "aggravating" circumstances indicating that a reprimand and warning would not be sufficient.

**The Tribunal's conclusions in this case**

Applying these principles, the Tribunal concluded:

- this was a first offence
- Mr. Ames did not smoke cannabis for performance-enhancing purposes
- the use of cannabis was unrelated to the sport
- there was no danger to other competitors, officials or spectators and
- there were no aggravating circumstances to render a reprimand and warning inappropriate.

The Tribunal also made the following observations about Mr. Ames' failure to participate in the Hearing and how this will usually make it difficult for an athlete to prove any explanation he or she may have:

"Although Mr Ames participated in the procedure for dealing with this important matter up to the point of admitting the violation and providing an explanation, he appears to have decided (without notice to the Tribunal or his sporting organisation) to take no further part. An athlete who does not participate in the Tribunal's procedures will not have the opportunity to verify on oath any explanation on which they may wish to rely in order to meet the burden of satisfying the Tribunal that a sanction is warranted in terms which are less severe than the mandatory period of two years' ineligibility. This may be so in cases of athletes charged with a violation involving a specified substance such as cannabis, or where an athlete is seeking to rely on a No Significant Fault or Negligence plea to reduce the ineligibility period by up to a year. In the absence of evidence given on oath or by affirmation, the Tribunal will usually be unable to hold that the athlete has satisfied the onus of proving his or her explanation.

In the present case, however, we are prepared to grant an indulgence to Mr Ames by reason only of the important concessions by Softball New Zealand that he did not intend to enhance his sporting performance and that there were no aggravating factors."

For further information, contact Brent Ellis, Registrar, Sports Disputes Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sportstribunal.org.nz).