

MEDIA RELEASE

26 February 2009

Sports Tribunal suspends rower for 2 months for anti-doping violation

The Sports Tribunal has suspended rower Dane Boswell from participating in sport for two months because of an anti-doping violation involving a prohibited substance, probenecid. The Tribunal heard the matter under urgency on 11 February 2009 and issued its decision to the parties on 12 February 2009. The Tribunal has now issued its reasons for that decision.

Mr Boswell underwent an out of competition drug test on 17 November 2008 and subsequently tested positive for probenecid. Mr Boswell requested that his second (B) sample be analysed and this was also positive. Anti-doping proceedings were brought to the Tribunal by Drug Free Sport New Zealand in 2009 upon this second positive test result.

Mr Boswell admitted the violation and gave evidence that the violation was inadvertent. He gave evidence, accepted by the Tribunal, that he had been prescribed probenecid by a doctor as treatment for an infected hand and that neither he, nor the doctor, had realised probenecid was a prohibited substance. The Tribunal concluded that the probenecid prescribed by the doctor, and taken by Mr Boswell, was the cause of the positive test results.

The Tribunal accepted that Mr Boswell did not deliberately take a prohibited substance and was not a "drug cheat". However, Mr Boswell did not discharge his responsibilities as an athlete subject to the Sports Anti-Doping Rules. The Tribunal was satisfied he had previously received appropriate drug education, and been supplied with educational material, on these matters by Drug Free Sport New Zealand as an athlete in the registered drug testing pool. The onus was on him to advise the doctor that he was an athlete subject to sports drug testing and he did not do this. He did not request the doctor to check and clarify the status of the substance the doctor intended to prescribe, as advised for the athlete to do in the anti-doping wallet card provided to athletes. Nor did he use a phone text service allowing athletes to check whether substances, they are unsure of, are prohibited. The Tribunal therefore concluded Mr Boswell could not succeed on a defence that he had no significant fault.

Prior to 1 January 2009, the mandatory penalty for a violation involving probenecid was 2 years' suspension. However, under the new Sports Anti-Doping Rules 2009, probenecid has been re-classified as a "specified substance" with a range of lesser penalties that can be imposed. Although the violation happened before 1 January 2009, the new rules allow the Tribunal to impose the lesser penalties available for a specified substance if the Tribunal considers it appropriate. Taking into account all the circumstances of this particular case, the Tribunal imposed a suspension of 2 months.

The decision in this case will be made available for download from the website of the Sports Tribunal (www.sporttribunal.org.nz). See *Drug Free Sport New Zealand v Dane Boswell* (ST 01/09). Copies can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sporttribunal.org.nz).