

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

**SDT 03/06**

Anti-Doping Violation Application

**BETWEEN**

**NZ FEDERATION OF BODY BUILDERS INC.**

**Applicant**

**AND**

**SAM MOHAMAD**

**Respondent**

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**DECISION OF TRIBUNAL  
14 July 2006**

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**No formal hearing in person - teleconference of Tribunal 2 June 2006**

**Tribunal Members Participating:**

Nicholas Davidson QC (Deputy Chairperson  
and Presiding Member)  
Adrienne Greenwood  
Dr Farah Palmer

Registrar: Brent Ellis

## INTRODUCTION

1. Sam Mohamad is a member of the New Zealand Federation of Body Builders Inc. (“NZFBB”).
2. A sample numbered 683355 was provided by him at the collection station at the NZ Body Building Championships, Auckland Girls Grammar, on 30 October 2005.
3. The New Zealand Sports Drug Agency (“the Agency”) issued a Notice of Determination and Entry in the Sports Drug Register dated 25 November 2005, recording that Mr Mohamad had committed the doping infraction.
4. The sample contained the substances Hydrochlorothiazide, Amiloride and Stanozolol, banned by the World Anti-Doping Code 2005 Prohibited List under S5-Diuretics and other masking agents, and S1-Anabolic agents.
5. The Agency recorded that these substances are banned according to the Schedule maintained under section 6 (1) (a) of the New Zealand Sports Drug Agency Act 1994.
6. In this case service of the application proved difficult. The application was filed with the Sports Disputes Tribunal on 10 January 2006. Mr Mohamad was sent a letter of that date, enclosing a copy of the application, and a pro forma Notice of Defence pursuant to the Tribunal’s Rules. Mr Mohamad had five working days to complete and return the document to the Registrar.
7. When there was no response the Registrar made attempts to contact Mr Mohamad, such as leaving telephone messages, but received no reply. The Registrar wrote to Mr Mohamad on 4 May 2006 to advise that should he fail to return a completed Notice of Defence form within the specified time period then the Tribunal would proceed to determine the matter.
8. The failure of Mr Mohamad to respond meant that the Tribunal had to arrange personal service, and with the co-operation of Mr Stewart of the Federation, and the Registrar, Mr Mohamad was served on Friday 12 May 2006. The Registrar was told by Mr Stewart that, at the time of service, Mr Mohamad acknowledged that he had received information from the Tribunal.
9. Mr Ellis, the Registrar, went further and spoke to Mr Mohamad by telephone, who confirmed that he had received documents, and that he had not sent a Notice of

Defence or any response to the Tribunal. He was advised that the Tribunal would proceed to a teleconference hearing, and he could participate. Mr Mohamad asked some questions regarding the Tribunal. He made some general complaints about the administration of his sport and drug testing, but indicated that it was unlikely he would participate in the hearing by teleconference. He was supplied with the Tribunal's office phone number, and again indicated that it was unlikely he would participate.

10. The Tribunal held a teleconference on Friday 2 June. There was no communication prior to then or at that time from Mr Mohamad.

### **THE NZFBB CONSTITUTION**

11. 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 By-Laws. 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"*.
12. 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.
13. 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.
14. The Tribunal accepts as a fact the determination of the Agency and it is required after a fair hearing to impose sanctions in accordance with Article 10 of the WADA Code.

### **THE WADA CODE**

15. 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”.*

16. 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.
17. 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.”*
18. Article 10.5 deals with concepts of *“no fault or negligence”* and *“no significant fault or negligence”*. Mr Mohamad did not seek to rely on this provision.
19. Article 10.8 of the WADA Code provides that the period of ineligibility shall start on the date of the decision providing for ineligibility.

## **DECISION**

20. Mr Mohamad has raised no defence. Under Article 10.2 of the WADA Code, the mandatory sanction is a period of two years’ ineligibility for a first violation. There is no basis for the Tribunal to impose a lesser sanction.
21. Under Article 10.8 of the WADA Code, the period of ineligibility shall commence from the date of this Decision, unless reasons of fairness require otherwise. There has been delay in delivery of the Decision, and for that reason the Decision is effectively back dated to 2 June 2006 (the date of the decision being made at the teleconference). The Tribunal’s Decision is that Mr Mohamad be ineligible (i.e. suspended) for a period of two years from the date 2 June 2006.
22. For avoidance of doubt, it is noted that under Article 10.9 of the WADA Code Mr Mohamad is ineligible to participate in any capacity in a competition or activity (other than authorised anti-doping education or rehabilitation programmes), authorised or organised by NZFBB or any other signatory to the WADA Code.

*NRW Davidson*

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**Nicholas Davidson QC  
Deputy Chairperson of Sports Disputes Tribunal  
14 July 2006**