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| <b>BETWEEN</b> | <b>SPORT INTEGRITY COMMISSION</b><br><b>Applicant</b>          |
| <b>AND</b>     | <b>MORGAN FOSTER</b><br><b>Respondent</b>                      |
| <b>AND</b>     | <b>ATHLETICS NEW ZEALAND</b><br><b>Interested party</b>        |
| <b>AND</b>     | <b>SURF LIFE SAVING NEW ZEALAND</b><br><b>Interested party</b> |

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**DECISION OF SPORTS TRIBUNAL  
OF 21 MAY 2025**

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| <b>Hearing</b>        | Decision on the papers – at the request of the parties   |
| <b>Parties</b>        | David Bullock and Kate Hursthouse, counsel for the Applicant<br>Ian Hunt, counsel for the Respondent |
| <b>Tribunal Panel</b> | John Macdonald (Chair)<br>Andrea Twaddle (Deputy Chair)<br>Sam Fellows                               |
| <b>Registrar</b>      | Luke Macris  |

1. Morgan Foster (Mr Foster) is a New Zealand surf lifesaver and athlete who was, at all material times, registered with both Surf Lifesaving New Zealand (SLSNZ) and Athletics New Zealand (ANZ) which have adopted the Sports Anti-Doping Rules 2024 (SADR) as their anti-doping policy.
2. Mr Foster was bound by the SADR and has admitted anti-doping rule violations (ADRVs) for breaches of r 2.6 (Possession) and 2.7 (Trafficking) of the SADR.

### **Anti-doping Rule Violations**

3. On 30 September 2024, the New Zealand Customs Service (Customs) intercepted a parcel addressed to Mr Foster and containing the following substances, which are prohibited at all times under the World Anti-Doping Agency (WADA) Prohibited List 2024:

- (a) Ipamorelin, 2mg, 1 vial;
- (b) Tesamorelin, 2mg, 1 vial;
- (c) TB-500 & BPC-157, 20mg, 1 vial; and
- (d) BPC-157, 10mg, 1 vial.

### **(Prohibited Substances)**

4. Customs referred the matter to the Sport Integrity Commission (Commission) on 10 October 2024.
5. On 10 December 2024, in response to the Commission's notice of intent to allege ADRV, Mr Foster provided a written statement in which he admitted to importing the Prohibited Substances and said he did so for his personal use, to address ongoing shoulder and knee injuries.
6. On 16 December 2024, the Commission filed ADRV Proceedings and applied to the Sports Tribunal (Tribunal) for Mr Foster to be provisionally suspended for breaches of SADR:
  - (a) Rule 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method); and
  - (b) Rule 2.6 (Possession of Prohibited Substances and Methods).

7. On 22 December 2024, an order for Mr Foster's Provisional Suspension was made by the Tribunal by consent. Timetable directions were also made by consent extending the time for Mr Foster to file his Form 2 by 13 January 2025.
8. On 13 January 2025, Mr Foster, in his Form 2, admitted the ADRVs and indicated an intent to seek a reduction to his sanction under r 10.3.1(ii), and to file a further statement in support of that submission.
9. On 25 February 2025, following a change of counsel, Mr Foster filed an amended Form 2 in which he admitted the ADRV in respect of r 2.6 for Possession, but denied the ADRV under r 2.2 for Attempted Use. In a further statement filed in support, Mr Foster corrected his earlier statement of 10 December 2024 and said that he did not import the Prohibited Substances for his own use but instead for a third party "AB". Mr Foster said that he and AB had a mutual doctor, Dr Reeder, and AB had requested Mr Foster's help with managing an injury. AB asked Mr Foster to make the purchase on her behalf as she believed her name and address were on a "watch list", and reimbursed Mr Foster for the cost of the purchase. Mr Foster also filed statements of Dr Reeder and Mr Hannett (Registered Clinical Psychologist) in support of his amended Form 2.
10. As a result of Mr Foster's amended Form 2, the Commission carried out further investigations.
11. On 28 March 2025, the Commission filed an amended Form 1 and served on Mr Foster an amended notice alleging breaches of SADR:
  - (a) Rule 2.6 (Possession of Prohibited Substances and Methods); and
  - (b) Rule 2.7 (Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method by an Athlete or Other Person).

**(Amended ADRVs)**

12. On 12 April 2025, Mr Foster filed an amended Form 2 to the amended Form 1 and admitted the Amended ADRVs, and the asserted periods of ineligibility.

**Joint Memorandum of Counsel**

13. On 15 May 2025, the parties filed a joint memorandum in which they submitted the appropriate sanction to be imposed on Mr Foster was a period of three years ineligibility backdated to the date of his provisional suspension on 22 December 2024.

## **Sanction for Possession and Trafficking**

### *Possession*

14. Under r 10.2.1, the period of ineligibility for a breach of r 2.6 (Possession) shall be four years where:
  - (a) the ADRV does not involve a specified substance, unless the Athlete can establish that the ADRV was not intentional; or
  - (b) the ADRV does involve a specified substance and the Commission can establish that the ADRV was intentional.
15. If r 10.2.1 does not apply, the period of ineligibility shall be two years.
16. Under the Prohibited List 2024, which is incorporated into the SADR, Ipamorelin, Tesamorelin and TB-500 are non-specified substances, while BPC-157 is a specified substance.
17. The parties submitted, and the Tribunal accepts, that the applicable sanctions for the ADRVs of r 2.6 (Possession) are:
  - (a) four years ineligibility in relation to each of Ipamorelin, Tesamorelin and TB-500, which are non-specified substances and for which Mr Foster has not sought to establish the ADRVs were not intentional; and
  - (b) two years ineligibility in relation to BPC-157, which is a specified substance and for which the Commission has not sought to establish the ADRV was intentional.

### *Trafficking*

18. Under r 10.3.3, the period of ineligibility for a breach of r 2.7 (Trafficking) is a minimum of four years up to lifetime ineligibility, depending on the seriousness of the violation. The comment to r 10.3.3 provides that those who are involved in doping Athletes (as defined in the SADR) should be subject to sanctions more severe than the Athletes who test positive.
19. The parties submitted that there is no evidence to suggest that AB, the person to whom Mr Foster was Trafficking the Prohibited Substances, was also an Athlete and that, taking into account all factors, Mr Foster's Trafficking was at a low level of seriousness.

Accordingly, they submitted an appropriate sanction is at the minimum level of four years ineligibility and the Tribunal accepts this.

*Multiple violations*

20. Pursuant to r 10.9.3.1, multiple ADRVs that have not yet been the subject of a Notice issued by the Commission shall be considered together as one single first violation. The final sanction imposed shall be based on the violation that carries the more severe sanction.
21. The parties submitted that in this case all ADRVs are to be considered together and that the most severe of the applicable sanctions is for Trafficking which should be set at four years ineligibility. Again, the Tribunal accepts that assessment.

*Early admission and acceptance*

22. Rule 10.8.1 provides that:

Where an Athlete or other Person, after being notified by DFSNZ of a potential anti-doping rule violation that carries an asserted period of Ineligibility of four or more years (including any period of Ineligibility asserted under Rule 10.4), admits the violation and accepts the asserted period of Ineligibility no later than 20 days after receiving notice of an anti-doping rule violation charge, the Athlete or other Person may receive a one-year reduction in the period of Ineligibility asserted by DFSNZ. Where the Athlete or other Person receives the one-year reduction in the asserted period of Ineligibility under this Rule 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Rule.

23. The comment at footnote 60 of the SADR provides:

In some countries, the imposition of a period of Ineligibility is left entirely to a hearing body. In those countries, the Anti-Doping Organisation may not assert a specific period of Ineligibility for purposes of Rule 10.8.1 nor have the power to agree to a specific period of Ineligibility under Rule 10.8.2. In these circumstances, Rule 10.8.1 and 10.8.2 will not be applicable but may be considered by the hearing body.

24. The SADR requires the Commission to refer ADRV proceedings to the Tribunal, which is responsible for determining the consequences, including any period of ineligibility.
25. Mr Foster's Form 2 was filed within 20 days of the Commission's amended Form 1. He admitted the Amended ADRVs and accepted the period of ineligibility specified in the amended notice.
26. The parties submitted that, in the circumstances of this case, the correct approach is for the 20-day period under r 10.8.1 to be taken from the date of the filing of the amended Form 1, despite the repeated allegation of an ADRV of r 2.6 (Possession). Accordingly, the parties submitted that Mr Foster should be granted a one-year reduction to his period of ineligibility. The Tribunal again accepts that approach.

## Decision

27. Having considered the joint memorandum of counsel, the Tribunal concludes that Mr Foster's sanction for both Possession and Trafficking (being the more severe sanction) should be a four-year period of ineligibility with a one-year reduction for early admission of the Amended ADRVs and acceptance of the period of ineligibility.
28. The final sanction is three years ineligibility, backdated to commence on 22 December 2024 being from the date of the provisional suspension order.

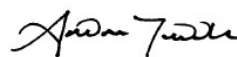
## Orders

29. The Tribunal **orders** as follows:
- (i) A period of ineligibility from participation in any capacity in a competition or activity organised, sanctioned, or authorised by any sporting organisation that is a signatory to the SADR, of three (3) years is imposed on Mr Foster under r 10.2.1 and 10.3.3, but backdated to commence on 22 December 2024 being from the date of the provisional suspension order.
  - (ii) This means Mr Foster is ineligible to participate in competitive sports until 22 December 2027.
  - (iii) This determination should be the final determination by the Tribunal in this matter, and it may be published in the usual way.

Dated: 21 May 2025



**John Macdonald**  
Chair



**Andrea Twaddle**  
Deputy Chair



**Sam Fellows**  
Tribunal Member