CAS 2024/A/10800 World Athletics (WA) v. Erriyon Knighton
CAS 2024/A/10802 World Anti-Doping Agency (WADA) v. Erriyon Knighton

ARBITRAL AWARD

rendered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr. Jacques Radoux, Référendaire at the Court of Justice of the European Union, Luxembourg

Arbitrators: Mr. Ulrich Haas, Professor of Law in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany

The Hon. Dr. Annabelle Bennett AC SC, Barrister in Sydney, Australia

in the arbitration between

World Athletics (WA), Monaco

Represented by Mr. Tony Jackson and Mr. Huw Roberts, Athletics Integrity Unit, Monaco

Appellant in CAS 2024/A/10800

&

World Anti-Doping Agency (WADA), Lausanne, Switzerland

Represented by Mr. Nicolas Zbinden and Mr. Robert Kerslake, Attorneys-at-Law, Kellerhals Carrard, Lausanne, Switzerland; and Mr. Ross Wenzel, WADA General Counsel

Appellant in CAS 2024/A/10802

and

Erriyon Knighton, Tampa, Florida, United States of America

Represented by Mr. Howard L. Jacobs, Mr. Roland A. Wiley and Ms. Leah M. Bernhard, Attorneys-at-law, The Law Offices of Howard L. Jacobs, Westlake Village, CA, United States of America

Respondent in CAS 2024/A/10800 and CAS 2024/A/10802

I. PARTIES

1. World Athletics ("WA"), is the international governing body of the sport of athletics, recognised as such by the International Olympic Committee. WA has its seat and headquarters in Monaco. It is a signatory to the World Anti-Doping Code (the "WADC"), in compliance with which it has, from the year 2020 onwards, adopted a set of rules, namely the World Athletics Anti-Doping Rules (the "WA ADR"), to combat doping in athletics.

2. The World Anti-Doping Agency (the "WADA") is a Swiss private-law foundation. Its legal seat is in Lausanne, Switzerland, and its headquarters are in Montreal, Canada. The WADA was created in 1999 to promote, coordinate and monitor at international level the fight against doping in sport in all its forms. It does this on the basis of the WADC.

3. Mr. Erriyon Knighton (the "Athlete" or the "Respondent"), born on 29 January 2004, is a Track and Field athlete specialized in the 100 and 200-meter sprint events. He is competing for the United States of America and is an International-Level Athlete within the meaning of the Unites States Anti-Doping Agency (the "USADA") Protocol for Olympic and Paralympic Movement (the "USADA Protocol").

4. WA and the WADA are referred to as the "Appellants" and the Appellants and the Respondent are collectively referred to as the "Parties".

II. FACTUAL BACKGROUND AND FIRST INSTANCE PROCEEDINGS

3. Below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced in this procedure. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.

4. On 26 March 2024, the Athlete was subject to an out-of-competition doping control in Gainesville, Florida, USA. During that control, the Athlete provided, *inter alia*, a urine sample (the "Athlete's Sample" or the "Sample").

5. The analysis of the "A" Sample by the WADA-accredited Sports Medicine Research and Testing Laboratory (the "SMRTL", Salt Lake City) revealed the presence of epitrenbolone. Epitrenbolone is a metabolite of trenbolone which is a Prohibited Substance and is listed under S.1.1 of the 2024 WADA Prohibited List as an Anabolic Androgenic Steroid.

6. On 12 April 2024, the USADA notified the Athlete of the fact that his Sample had revealed an Adverse Analytical Finding ("AAF") for epitrenbolone and informed him that he could request the "B" Sample opening and analysis. Further, the Athlete was

informed that the USADA had decided to impose a Provisional Suspension against him. Finally, the Athlete was invited to provide his explanations by 19 April 2024.

7. On 16 April 2024, the Athlete requested the opening of the "B" Sample.

8. On 30 April 2024, the USADA notified the Athlete that the "B" Sample analysis confirmed the presence of epitrenbolone. The laboratory documentation package provided to the Athlete revealed that the concentration of trenbolone in both the A and B samples was reported at approximately 1.3 ng/mL which, adjusted for specific gravity, corresponds to 1.14 ng/mL. In subsequent conversations with the USADA, the SMRTL confirmed that for the Sample, the uncertainty in measurement was less than 20%, meaning that at its lowest concentration, the epitrenbolone in the Sample would be 0.912 ng/mL.

9. On 28 May 2024, the USADA informed the Athlete that he was charged with an anti-doping rule violation ("ADRV") for the presence of epitrenbolone and for the use and/or attempted use of trenbolone pursuant to Articles 2.1 and 2.2 of the WA ADR and Articles 2.1 and 2.2 of the WADC, which are incorporated into the USADA Protocol. It further asked the Athlete to confirm that he requested an expedited hearing in this matter.

10. On the same day, the Athlete informed USADA that he contested the sanction sought by USADA and confirmed that he requested an expedited hearing according to the USADA Protocol.

11. Still on 28 May 2024, proceedings were initiated before the New Era Arbitration Tribunal (the "Arbitration Tribunal").

12. On 14 June 2024, the Arbitration Tribunal held an evidentiary hearing in the present matter and, on 16 June 2024, the USADA and the Athlete provided their closing arguments.

13. On 19 June 2024, the Arbitral Tribunal issued an operative award. The reasoned decision (the "Appealed Decision") was rendered on 18 July 2024. Its operative part reads as follows:

> "*A. [USADA] met its burden of proving Respondent committed an [ADRV] under Articles 2.1 and 2.2 [of] the Code for use and presence of a prohibited substance.*
>
> *B. [The Athlete] has sustained his burden of proof under Article 10.5 of the Code that he bore No Fault or Negligence in connection with the use and presence of a Prohibited Substance. Therefore, [the Athlete] shall have no period of Ineligibility.*
>
> *C. The Parties shall bear their own attorneys' fees and costs associated with this Arbitration. The administrative fees and expenses of the arbitration administrator, and the compensation and expenses of the Sole Arbitrator, shall*

be borne entirely the United States Olympic & Paralympic Committee as provided in the relevant arbitration rules.

D. This Award is in full settlement of all claims submitted in this arbitration. All claims not expressly granted herein are hereby denied".

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

14. On 8 August 2024, WA filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS"), in Lausanne, Switzerland, in accordance with Article 13.2.1 and Article 13.2.3.1 of the Annex A to the USADA Protocol and Articles R47 et seq. of the Code of Sports-related Arbitration (the "CAS Code") (2023 edition) against the USADA and the Athlete with respect to the Appealed Decision. In its Statement of Appeal, the First Appellant nominated Prof. Dr. Ulrich Haas, Professor of Law in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany, as arbitrator.

15. On 14 August 2024, the CAS Court Office acknowledged receipt of WA's statement of appeal and registered the appeal proceedings as *CAS 2024/A/10800 World Athletics v. United States Anti-Doping Agency & Erriyon Knighton*. It further, invited the USADA and the Athlete to jointly nominate an arbitrator and to state whether they objected to English being the language of the procedure *CAS 2024/A/10800*.

16. On the same day, the WADA filed a Statement of Appeal with the CAS, in accordance with Article 13.2.1 of the Annex A to the USADA Protocol and Articles R47 et seq. of the CAS Code against the USADA and the Athlete with respect to the Appealed Decision. In its Statement of Appeal, the WADA also nominated Prof. Dr. Ulrich Haas, as arbitrator.

17. On 15 August 2024, the USADA informed the CAS Court Office that it considered itself as not being an indispensable party to the proceedings in *CAS 2024/A/10800* and requested to be dismissed from the appeal. In this regard, it stated that the Respondent did not object to USADA's dismissal from said appeal.

18. On 16 August 2024, the CAS Court Office acknowledged receipt of the statement of appeal submitted by the WADA, registered that appeal proceeding as *CAS 2024/A/10802 Word Anti-Doping Agency v. United States Anti-Doping Agency & Erriyon Knighton*, and invited the USADA and the Athlete to jointly nominate an arbitrator and to state whether they objected to English being the language of the procedure *CAS 2024/A/10802*. WA, the WADA, the USADA and the Athlete were further asked to inform the CAS Court Office whether they agreed to consolidate the proceedings *CAS 2024/A/10800* and *CAS 2024/A/10802*.

19. On the same day, WA informed the CAS Court Office that it withdrew its appeal insofar as it was directed against the USADA and that it agreed to the consolidation of the two proceedings.

20. Still on 16 August 2024, the Respondent informed the CAS Court Office that he did not oppose the consolidation of the proceedings *CAS 2024/A/10800* and *CAS 2024/A/10802*.

21. On 20 August 2024, the USADA informed the CAS Court Office that it could not agree to a consolidation of the two proceedings at hand because WADA had not agreed to release it from the proceedings in *CAS 2024/A/10802*.

22. On 21 August 2024, the CAS Court Office, on behalf of the Deputy President of the CAS Appeals Arbitration Division, informed WA, the WADA, the USADA and the Athlete that the procedures *CAS 2024/A/10800* and *CAS 2024/A/10802* had been consolidated.

23. On 9 September 2024, the WADA informed the CAS Court Office that it withdrew its appeal as far as it was directed against the USADA.

24. On 14 September 2024, the Respondent nominated The Hon. Dr. Annabelle Bennett AC SC, Barrister in Sydney, Australia, as arbitrator in these proceedings.

25. On 1 and 4 November 2024, the WADA and WA respectively filed their Appeal Brief in accordance with Article R51 of the CAS Code.

26. On 5 November 2024, the CAS Court Office invited the Respondent to submit his Answer pursuant to Article R55 of the CAS Code, highlighting that if he failed to do so, the Panel may nevertheless proceed with the arbitration and deliver an award.

27. On 12 November 2024, the CAS Court Office informed the Parties that the Panel appointed to resolve these disputes was constituted as follows:

    President — Mr. Jacques Radoux, Référendaire, Court of Justice of the European Union, Luxembourg,

    Arbitrators: Prof. Dr. Ulrich Haas, Professor of Law in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany,

    The Hon. Dr. Annabelle Bennett AC SC, Barrister in Sydney, Australia.

28. On 23 December 2024, the Respondent filed his Answer.

29. On 27 December 2024, the CAS Court Office acknowledged receipt of the Respondent's Answer and informed the Parties that unless they agree or the President of the Panel orders otherwise on the basis of exceptional circumstances, Article R56 para.1 of the CAS Code provides that the Parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the Appeal Brief and of the Answer. The Parties were also invited to state, by 13 January 2025, whether they preferred a hearing to be held in the present matter and whether they requested a case management conference (CMC) with the Panel.

30. On 11 January 2025, the Respondent informed the CAS Court Office of his preference for a hearing to be held in these matters and that he considered that a CMC would be beneficial.

31. On 13 January 2025, the WADA informed the CAS Court Office that it considered a hearing to be necessary in these consolidated proceedings, but it did not request a CMC. While stating that it was not opposed to an in-person hearing, WA requested the adoption of a hybrid solution, allowing participants to attend the hearing via video conference. WA further pointed out that it would attend a CMC if required.

32. On 20 January 2025, the CAS Court Office informed the Parties that the Panel had decided to hold the hearing in Lausanne, with the possibility to attend by videoconference, and provided the Parties with some possible dates for that hearing in February and March 2025. However, the Parties were unavailable on the suggested dates.

33. On 6 and 24 February 2025, the Panel, in light of the unavailability of the Parties on the suggested dates, provided several further dates for a hearing in March 2025.

34. On 5 March 2025, the CAS Court Office informed the Parties that the Panel would also be available for a hearing on 25 April 2025 and invited the Parties, in case they were unavailable for a hearing on that date, to provide the Panel with some mutually acceptable hearing dates.

35. On 13 March 2025, the Parties informed the CAS Court Office that they were available for a hearing on 5 and/or 6 May 2025.

36. On 25 March 2025, the CAS Court Office, on behalf of the Panel, informed the Parties that a hearing would take place by videoconference on 5 May 2025.

37. On 4 April 2025, the Parties informed the CAS Court Office that they were in agreement that a second day of hearing would be necessary.

38. On 10 April 2025, the CAS Court Office, on behalf of the Panel, informed the Parties that the Panel was giving them two options regarding the hearing. Either a single day hearing on 5 May 2025 followed by written closing submissions, to be filed shortly after the hearing, or an in person hearing on 23 and 24 June 2025.

39. On 24 April 2025, following the Parties' agreement on the subject, the CAS Court Office informed the Parties that the hearing scheduled for 5 May 2025 was postponed and would take place on 23 and 24 June 2025.

40. On 15 May 2025, the CAS Court Office informed the Parties, *inter alia*, that the hearing schedule they proposed had been accepted by the Panel and invited them to return a signed copy of the Order of Procedure. On 20 May 2025, the WADA and the Respondent signed and returned a copy of the Order of Procedure. WA returned a signed copy of the Order of Procedure on 26 May 2025.

41. On 23 and 24 June 2025, a hearing took place at the CAS headquarters in Lausanne. The Panel was assisted by Ms. Delphine Deschenaux-Rochat, counsel to the CAS, and joined by the following participants:

For WA:

Mr. Tony Jackson, AIU (in person);

Mr. Chris Lavey, counsel (in person);

For the WADA:

Mr. Ross Wenzel, WADA General Counsel, (in person);

Mr. Nicolas Zbinden, counsel (in person);

Mr. Robert Kerslake, counsel (in person);

Ms. Marissa Sunio, WADA legal department (video);

Prof. Christiane Ayotte, expert (video);

Prof. Bradley Johnson, expert (video);

Dr. Daniel Eichner, expert (video);

Dr. Juan de Dios Garza Flores, expert (video).

For the Respondent:

Mr. Erriyon Knighton, Respondent (in person);

Mr. Howard L. Jacobs, counsel (in person);

Mr. John Regis, observer (in person);

Ms. Jaimalyn Ash, witness (in person);

Ms. Laura Cain, witness (video);

Ms. Caitlyn Whitlock, witness (video);

Dr. Anneleen Decloedt, expert (in person);

Prof. Pascal Kintz, expert (in person);

Prof. Alberto Salomone, expert (in person);

Ms. Giorgia Ferrero, assistant of Prof. Salomone (in person);

Ms. Katy Freeman, counsel (video);

Mr. Roland Wiley, counsel (video);

Ms. Leah Bernard, counsel (video).

42. At the outset of the hearing, the Parties confirmed that they had no objection as to the constitution of the Panel.

43. During the hearing, the Panel heard evidence from the above mentioned witnesses and experts. Before taking their evidence, the President of the Panel informed each of the

witnesses and experts of their duty to tell the truth, subject to sanctions of perjury under Swiss law. The Parties had the opportunity to examine and cross-examine them. Finally, the Athlete also made a statement.

44. The Parties were given full opportunity to present their case, submit their arguments and answer the questions from the Panel. At the end of the hearing, the Parties confirmed that their right to be heard and their right to a fair trial had been fully respected during the hearing and that they had no objections as to the manner in which the proceedings had been conducted.

IV. THE PARTIES' SUBMISSIONS

45. The aim of this section of the Award is to provide a summary of the Parties' main arguments rather than a comprehensive list thereof. However, the Panel confirms that in making its decision it has carefully considered all the Parties submissions and evidence, even if not expressly mentioned in this section of the Award or in the discussion of the claims below.

A. WA's Submissions and Requests for Relief

46. In its Statement of Appeal, WA observes, as a preliminary point, that, in light of the fact that the Appealed Decision was rendered in application of the USADA Protocol, the latter is governing the present matter, and the WA ADR apply whenever referred to by that Protocol. WA further maintains that the CAS is competent to hear the present appeal on basis of Article 13.2.1. of the Annex A of the USADA Protocol and that the Appeal is admissible as it has been filed within the twenty-one (21) day deadline prescribed in Article 17 of the USADA Protocol.

47. In its Appeal Brief, WA explains that it had access to the WADA's Appeal Brief and that it fully agrees with the arguments set out therein. It further relies on and refers to the exhibits filed by the WADA.

48. WA considers that the Appealed Decision must be set aside. In support of its position, it argues, in essence, that the evidence submitted by the Athlete in support of the meat contamination scenario in order to explain the AAF falls short of the required proof of source on a balance of probabilities. This meat contamination scenario put forward by the Athlete cannot explain the concentration of trenbolone found in the Athlete's sample. The concentration found in the meat analysed by USADA is 0.1 ng/g, *i.e.* a concentration within the legal frameset applicable in the USA. Such concentration is far too low to cause the AAF. Indeed, according to Prof. Christiane Ayotte, the meat contamination scenario is statistically impossible as the concentration of trenbolone in the Athlete's Sample exceeded the concentration that was present – if any – in the oxtail dish consumed three to four days prior to the collection of that Sample.

49. Further, a report and a study by Prof. Brad Johnson establishes that it is highly unlikely that the Athlete consumed meat contaminated with a concentration of trenbolone required to cause the AAF. There is no evidence that meat could be contaminated to

such a level to make the contamination scenario put forward by the Athlete work. This scenario would require an alignment of independently improbable events, none of which would be supported by the evidence present in this case.

50. WA adds that, as is clear from several reports, the list of trenbolone cases in Athletics as well as the CAS jurisprudence (CAS 2019/A/6319, CAS 2021/O/8111, CAS OG 20/06 and CAS OG 20/08), trenbolone would, due to its strong performance enhancing effects, be a problem in Athletics and many of the athletes caught would try to explain their AAFs on meat contamination. However, in most cases, the explanation provided by the athletes did not work in terms of the pharmacokinetics, except for one bad precedent, *i.e.* CAS 2019/A/6313. Panels have systematically rejected explanations of source where the science has not supported them. The same should apply in the present case.

51. Hence, the Athlete has failed to establish that the alleged meat contamination was more likely than not the reason for the concentration of epitrenbolone in his Sample. Thus, the Athlete cannot benefit from Articles 10.5. or 10.6 of the WA ADR. Moreover, the Athlete has not established a lack of intent. Thus, in accordance with Article 10.2.1 of the WA ADR, the Athlete should be sanctioned with a period of ineligibility of four (4) years.

52. In view of all the above considerations, the First Appellant requests the CAS to rule that:

"*1) That the appeal of World Athletics is admissible.*

2) The decision dated 19 June 2024 (with reasons communicated on 18 July 2024) rendered by New Era ADR in the matter of USADA v. Erriyon Knighton is set aside.

3) Erriyon Knighton is found to have committed an anti-doping rule violation under Articles 2.1 and/or 2.2 of the USADA Protocol.

4) Erriyon Knighton is sanctioned with a period of Ineligibility of four (4) years, starting on the date on which the CAS award enters into force. Any period of provisional suspension effectively served by Erriyon Knighton before the entry into force of the CAS award shall be credited against the total period of Ineligibility to be served.

5) All competitive results obtained by Erriyon Knighton from and including 26 March 2024 (i.e. the date of the Anti-Doping Rule Violation) are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).

6) The arbitration costs shall be borne by Erriyon Knighton.

7) World Athletics is granted a significant contribution to its legal and other costs".

B. The WADA's Submissions and Requests for Relief

53. In its Statement of Appeal, the WADA maintains, as a preliminary point, that, pursuant to Articles 13.2.1, 13.2.3.1 and 13.2.3.5 of the Annex A of the USADA Protocol, the WADA has a right to appeal the Appealed Decision, and its Appeal is admissible as it has been filed within the prescribed twenty-one (21) day deadline.

54. In its Appeal Brief, the WADA considers that the Appealed Decision must be set aside as the Athlete has not established that the concentration of epitrenbolone found in his Sample was compatible with the alleged meat contamination. Indeed, the testing statistics in North America would show that there is no issue whatsoever with athletes testing positive as a result of consuming microscopic traces of that substance that may be left in meat after the legal administration of that substance to cattle as a growth hormone.

55. According to the WADA, the approach adopted in the Appealed Decision, consisting of a comparison of the alleged meat contamination scenario (which relied on scant, speculative evidence beyond identifying the product which allegedly caused the AAF) with an alternative doping scenario is fundamentally flawed as it does not respect the fact that the burden of proof rests on the Athlete. Further, the analysis of the scientific evidence in the Appealed Decision is equally flawed, as it is entirely speculative and not based on objective findings.

56. The WADA argues that the correct approach when analysing a plea of No Fault or Negligence requires an athlete to establish the source of the Prohibited Substance. At all times, the burden of proof is on the athlete and not on the prosecuting authority. It is up to the athlete to show not only that there is a product which was potentially contaminated, but actually that the contaminated product was more likely than not the source of the AAF. In a case like the present one, this requires the Athlete to establish that the concentration of trenbolone in the meat could result in the concentration detected in the Athlete's Sample. If the Athlete cannot prove this causality, the plea of No Fault or Negligence must fail, as the source has not been established.

57. In support of its position, the WADA, on the one hand, refers to the provisions of Article 10.5 of Annex A to the USADA Protocol pursuant to which, in order to benefit from an elimination of the period of ineligibility for No Fault or Negligence, an athlete "*must also establish how the Prohibited Substance entered the athlete's system*". On the other hand, WADA refers to a long list of CAS decisions requiring that the source of the Prohibited Substance be established on the balance of probabilities (CAS 2010/A/2268; CAS 2014/A/3615; CAS 2014/A/3820; CAS 2016/A/4676; CAS 2021/A/8125).

58. The WADA further emphasizes that, according to CAS jurisprudence, the "*competing scenarios*" approach to establishing proof of source requires an identification of a theory which is more likely to be true than other possible scenarios, and therefore still requires proof on the balance of probabilities. Indeed, as held in CAS 2011/A/2384 & CAS 2011/A/2386, by considering competing scenarios and deciding on such basis the panel in that case "*in no manner shifted the burden of proof away from the Athlete as*

explained above (see supra §§ 91-113). The burden of proof only allocates the risk if a fact or a scenario cannot be established on a balance of probabilities".

59. According to the WADA, CAS 2019/A/6313 was an "outlier" and stands as a major departure from the CAS jurisprudence. This not only follows from the reasoning of the award itself but could also from the findings of other CAS panels in more recent cases (CAS 2020/A/6978 & 7068; CAS 2021/O/8111, CAS 2018/A/5768; CAS 2023/A/10025 & 10227). In these cases, the panels decided that the burden of proof of establishing the source of the Prohibited Substance found in the athlete's system is on the athlete and that the standard to be applied is on the balance of probabilities.

60. However, according to the WADA, in the present matter, the Athlete has failed to present evidence that the alleged meat contamination scenario is probable. The available scientific evidence suggests that the Athlete's contamination scenario is highly implausible, because:

- First, there is no evidence that AAFs for trenbolone are associated with meat contamination in the USA. The reports of Dr. Fedoruk, Dr. Eichner and Prof. Ayotte all show that meat contamination is extremely unlikely to cause an AAF for trenbolone in that country.

- Second, as explained by Prof. Ayotte in her report, a concentration of 0.1ng/g of trenbolone in 500g of meat consumed could not result in the detection of epitrenbolone at 1.3 ng/mL in the Athlete's Sample. This is even more so considering that the Sample was collected from the Athlete 3-4 days after the consumption of the allegedly contaminated beef, since the substance would have been excreted in the first hours. The concentration of epitrenbolone (1.3 ng/mL) detected in the Athlete's Sample, exceeds the dose consumed by a factor of 4.525. Even if the Athlete had consumed twice the amount of oxtail as alleged (*i.e.*, 1kg or 2.2 lbs.), which would be an enormous portion for one person alone, and further assuming that the concentration in the Athlete's urine was 1 ng/mL instead of 1.3 ng/mL, the meat contamination scenario brought forward would still be impossible as the concentration in the urine sample would still exceed the concentration present in the beef. The Athlete's Sample having been collected 3-4 days after the trenbolone-contaminated meat was allegedly consumed, this simply would not make pharmacokinetic sense. A spot urine sample collected days after ingesting trenbolone would only contain a tiny fraction of the originally ingested dose. Additionally, this would not account for the possible diminution in the concentration of trenbolone in the meat sample which would result through cooking and processing the meat, and it would assume full metabolization as epitrenbolone, and no other metabolites that are formed following the administration of trenbolone, including the sulfates. Further, given the short excretion period of trenbolone (as shown in an experiment by Spranger et al in 1991) and taking into account the excretion rate referenced by the Athlete's experts (Prof. Kintz and Prof. Salomone), which are, *per se*, contested by Prof. Ayotte, the dose required to produce the AAF would be approximately 10 micrograms or 0.01mg, meaning that the 500 g of meat had to contain a concentration of trenbolone of 20 ng/g, which is 10 times higher than the maximum permitted residue levels for trenbolone in meat in the USA, and

two-hundred (200) times higher than the concentration present in the oxtail sourced by the USADA from the Moreno Bakery. A concentration of 20 ng/g would be far in excess of any concentration detected in Canada or the USA. Thus, it is submitted, the concentration of trenbolone in the Athlete's Sample would take any theory of contaminated beef outside of the realm of probability.

- Third, the Athlete's meat contamination scenario relies on the assumption that, despite the same supplier providing meat to the Moreno Bakery which contained trenbolone in concentrations consistent with proper farming protocol, that supplier also provided an oxtail eaten 3-4 days prior to the doping control which was overloaded with trenbolone. However, the Athlete failed to provide evidence to support this theory and relies on speculation and conjecture that the trenbolone implant was misapplied to the animal from which his oxtail came in such a way as to cause such an extreme outlier, resulting in the ADRV. The explanations and possible scenarios provided by Dr. Decloedt in her report regarding the possibility of trenbolone injection being done in the base of the tail of the cattle again are highly speculative and such speculation would, according to the CAS jurisprudence (CAS 2020/A/7068, CAS 2021/O/8111), not be enough to meet the Athlete's strict burden to establish the origin of the prohibited substance on the balance of probabilities. Further, the reports of Prof. Ayotte and Dr. Eichner show the statistical improbability of meat contamination causing positive AAFs.

- Fourth, neither CAS 2019/A/6313 nor CAS 2023/A/10025 & 10227 are, in light of the relevant facts, comparable to the present case and neither case could, thus, be advanced in support of the Athlete's position.

61. The Second Appellant notes that whilst it is clear from the jurisprudence that for an athlete to benefit from a plea of No (Significant) Fault or Negligence he or she must establish source, there is some CAS jurisprudence according to which in exceptional circumstances an Athlete can rely upon circumstantial evidence to show that the violation was not "intentional" (CAS 2016/A/4534, CAS 2016/A/4919). However, the present matter does not qualify as one of these exceptional cases.

62. Moreover, the alternative, circumstantial evidence presented by the Athlete, *i.e.* his previous clean record, a polygraph test and a hair test do not resist scrutiny. Prof. Ayotte disputes the fact that the amount present in the Athlete's sample is not consistent with a sophisticated doping scenario. The Athlete's previous anti-doping sample was collected on 1 March 2024, which gave the Athlete sufficient time to engage in doping. The hair test analysis submitted by the Athlete is not conclusive given that, as pointed out by Prof. Ayotte in her report, there is no controlled study showing the minimum dose of trenbolone required to produce a positive hair test. A detection in hair would only be possible following a repeated, long-term administration of steroids in high doses ("bodybuilding-type regimens"). Finally, the polygraph test should be treated with care given that, according to consistent CAS jurisprudence, the probative weight of a polygraph test amounts to no more than a party assertion (CAS 2017/A/4954, CAS 2019/A/6319).

63. In light of the above, and given that the Athlete has not established the source of the Prohibited Substance and therefore is limited to only "the narrowest of corridors" in order to establish a lack of intent, the WADA argues that the reduction in the period of Ineligibility should not be applied to this case, and the full sanction of four (4) years is applicable.

64. In view of the above considerations, the WADA requests the CAS to rule that:

"*1. The appeal of WADA is admissible.*

2. The decision dated 19 June 2024 (with reasons communicated on 18 July 2024) rendered by New Era ADR in the matter of USADA v. Erriyon Knighton is set aside.

3. Erriyon Knighton is found to have committed an anti-doping rule violation under Articles 2.1 and/or 2.2 of the USADA Protocol.

4. Erriyon Knighton is sanctioned with a period of ineligibility of four (4) years, starting on the date on which the CAS award enters into force. Any period of provisional suspension effectively served by Erriyon Knighton before the entry into force of the CAS award shall be credited against the total period of ineligibility to be served.

5. All competitive results obtained by Erriyon Knighton from and including 26 March 2024 (i.e. the date of the anti-doping rule violation) are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).

6. The arbitration costs shall be borne by Erriyon Knighton.

7. WADA is granted a significant contribution to its legal and other costs".

C. The Respondent's Submissions and Requests for Relief

65. The Respondent observes, on a preliminary basis, (i) that epitrenbolone was detected in his system and that the present case is thus only about the appropriate period of ineligibility and (ii) that the applicable provisions in the present matter are the ones contained in the 2021 WADC.

66. As regards the merits of the case, the Respondent emphasizes that, pursuant to Article 3.1 of the WADC, where an athlete bears the burden of proof, the standard of proof shall be by a balance of probability. Hence, for an athlete to prove "No Fault or Negligence" under Article 10.5 or "No Significant Fault or Negligence" under Article 10.6, he or she must also first establish how the prohibited substance entered his or her system on a balance of probability. In other words, an athlete only needs to demonstrate that one specific way of ingestion is marginally more likely than not to have occurred. The issue of proving source in a meat contamination case such as the present matter is unique, as the meat that the Athlete claims is the cause of the contamination is no longer available by the time he received notice of the AAF. However, the panel in CAS 2019/A/6313 has considered that in such circumstances it must be accepted that the

Athlete "*could not establish with scientific certainty*" the extent to which the portion of the beef in question was or was not actually contaminated with the Prohibited Substance at stake. In any event, Article 10.5 of the WADC would not require the Athlete to prove that the amount of epitrenbolone in the contaminated oxtail precisely and mathematically correlates with the amount of trenbolone found in his Sample. It would only require the Athlete to prove, on a balance of probability, how that substance entered his system. As would be clear from CAS jurisprudence, in a meat contamination case, an athlete can only succeed in discharging his or her burden of proof "*by proving that (1) in his [or her] particular case meat contamination was possible and that (2) other sources from which the Prohibited Substance may have entered his [or her] body either do not exist or are less likely*" (CAS 2011/A/2384 & 2386). This line of reasoning was, in essence, accepted in other decisions (CAS 2023/A/10025 & 10227; CAS 2009/A/1870). Other disciplinary panels have also found that athletes had proven "source" without directly or concretely proving that the meat consumed was contaminated at a level that would mathematically explain the positive test (ITF v. Farah; ITF v. Valle; FISA v. Arriaga-Gomez, and CAS 2022/ADD/46).

67. The Respondent considers that, in the present matter, he has established that the AAF is more likely than not the result of him having ingested oxtail contaminated with trenbolone on 22 and 23 March 2024.

68. In support of his position, the Athlete argues, first, that the Appellants ignore some objective evidence regarding the ordering and payment of the oxtail dish, the date of consumption, the source of the supplier of the meat and the fact that the tests of two samples of oxtail provided by the restaurant (Moreno Bakery) to the UCLA Olympic Analytical Laboratory (the "UCLA Laboratory") reported the presence of trenbolone in those samples. He submits that the arguments of the Appellants, drawn from cases relating to contaminated supplements, are largely irrelevant to the present procedure as they are not transposable to meat contamination cases. Moreover, by objectively establishing that (i) he consumed oxtail from Moreno Bakery; (ii) Moreno Bakery's oxtail was sourced by Sukarne; and (iii) Sukarne produces oxtail that contains detectable levels of trenbolone residue and sells this contaminated oxtail to Moreno Bakery, the Athlete has brought forward more objective evidence that contaminated meat was the source of his AAF than any athlete in any published no-fault meat contamination case. This case is very similar to CAS 2019/A/6313 and it is worth noting that the Appellants have not cited a case where (i) the athlete adduced concrete evidence to establish that he ingested meat; (ii) the athlete identified the source of the meat; (iii) a sample of the same cut of meat from the same producer (different shipment) was analysed for residue; and (iv) the sample tested positive for the anabolic agent identified in the athlete's positive test.

69. The Appellant states, second, that he is not required to mathematically prove that the contaminated oxtail he consumed precisely matches the estimated concentration of trenbolone found in his Sample. Indeed, Article 10.5 of the WADC does not require such proof. In any event, such a burden of proof in a meat contamination case would be practically impossible to meet as it would require the testing of a cut of meat that has already been ingested by the athlete. In this regard, the Respondent refers to the findings of the panels in the case USADA v. Hardy (AAA No. 77 190 00288 08) and CAS

2023/A/10025 & 10227. According to the Respondent, the panel in CAS 2023/A/10025 & 10227 held that an athlete's burden to prove "source" must be approached with "common sense", bearing in mind the uncertainties and unknowns that an athlete cannot control. This would be even more important in a case in which the found concentration levels are only an "estimate" based on a "qualitative" and not a "quantitative" test. Moreover, the Athlete has never been provided with the laboratory documentation from the UCLA Laboratory. Regardless of how much the Appellants argue about the concentration estimates for the urine sample and the Oxtail samples tested by USADA, the undisputed fact is that there is no reliable concentration measurement of trenbolone in either. Anti-doping agencies cannot routinely perform qualitative tests that fail to provide accurate concentration level measurements and then attempt to disprove an athlete's explanation based on such inaccurate tests. In the present case, the results from the hair testing performed by Prof. Kintz confirms that the Appellants' allegation, that Mr. Knighton ingested trenbolone from an additional source, *i.e.* not through the contaminated meat, is not convincing and the low levels of trenbolone detected in the Athlete's Sample also undermine the Appellants' theory of an intentional ingestion of trenbolone. Hence, estimated concentration levels are not sufficient to undermine the Athlete's explanation as to source which was unequivocally confirmed by the USADA's own testing.

70. The Respondent argues, third, that in light of, inter alia, the feedlot implant audits conducted by Fort Dodge Animal Health in 1996 and 1997, the results published by the Food Safety Inspection Service National Residue Program (NRP) of the United States Department of Agriculture (USDA), the report from InSight Crime in 2022, and the expert report of Dr. Decloedt, the evidence indicates the plausibility of the Moreno Bakery oxtail from Sukarne consumed by Mr. Knighton being contaminated with trenbolone at levels higher than the USDA's maximum residue limit of 2 ng/g. Considering that, before the Arbitration Tribunal, the Appellants' expert, Prof. Johnson, described himself as an "*advocate for the practices of the American meat industry*" and testified that for every dollar (USD) that the cattle industry spends on steroidal implants, farmers receive a return of around $25-$30, one cannot expect him to provide objective testimony regarding surreptitious veterinary and implanting practices in the U.S. beef supply chain. Further, the other elements relied upon by the Appellants to undermine the Athlete's argument are not convincing. The Respondent adds that, according to the expert testimony of Prof. Ayotte in CAS 2019/A/6313, "*the sudden increase in positive tests at the Montreal lab coincides with the decrease in inspections of beef because of the Trump administration*" and that the "*the risk of beef contamination in the United States is now on par with the risk of beef contamination in Mexico*". All in all, the prevalence of trenbolone use in the U.S. meat industry, the known practice of improperly placing trenbolone implants in areas other than the ear, including the tail, as well as the reported potential of Sukarne purchasing and placing illicitly pre-fattened cattle on the supply chain to U.S. markets, would tend to demonstrate that the oxtail that the Athlete consumed on 22 and 23 March 2024 was the source of his positive test.

71. The Respondent notes, fourth, that the Appellants have brought forward no plausible intentional doping scenario, let alone one that would be more likely to be the source of the Athlete's AAF than his ingestion of contaminated oxtail. In this regard, he argues

that, in line with CAS 2011/A/2384 & 2386 and CAS 2023/A/10025 & 10227, part of the assessment of an athlete's burden of proof is whether any alternative hypothesis renders the athlete's explanation implausible. In the present case there is clearly no such alternative explanation. As explained by Prof. Kintz and Prof. Salomone, the estimated concentration of 1.1 ng/mL is a purely semiquantitative estimate that could be inaccurate by 50 percent, meaning that the true concentration of trenbolone in Mr. Knighton's sample could be as low as 0.5 ng/mL. Further, the fact that, contrary to the large majority of intentional trenbolone findings reported by SMRTL in which other prohibited substances such as testosterone, clomiphene, boldenone, nandrolone, selective androgen receptor modulators, and other anabolic agents were found, no such other substance was found in the Athlete's Sample, corroborates the implausibility of an intentional doping scenario. This is even more so if one considers that the vast majority of trenbolone findings reported by SMRTL contained a concentration level of greater than 10 ng/mL, *i.e.* approximately ten times the estimated amount found in the Athlete's Sample. Finally, the results of the analysis performed by Prof. Kintz on the Athlete's hair also strongly contradict the plausibility of intentional doping, as no long-term exposure to trenbolone was detected.

72. As regards the sanction, the Respondent recalls that, pursuant to Article 10.2 of the WADC, the default sanction for a substance like trenbolone is a period of ineligibility of four (4) years except if the athlete establishes that the ADRV was not intentional. An athlete who tests positive after ingesting contaminated meat cannot be considered having acted with intent. Thus, if the Panel were to find that the Respondent has met his burden of proving how trenbolone entered his system, then it would be easy for him to establish that (i) he did not know that eating the oxtail from Moreno Bakery would lead to a positive test result; and (ii) that he did not know that there was a significant risk that the ingestion of oxtail from Moreno Bakery might constitute or result in an ADRV. If the Panel were to find that the Respondent failed to establish the source of the trenbolone, he would still be able to establish, on a balance of probability, that the ADRV was not intentional. Indeed, according to the legal literature and CAS jurisprudence, the source of the prohibited substance does not have to be established in order to establish lack of intent (CAS 2016/A/4534; CAS 2016/A/4676; CAS 2020/A/7083; CAS 2020/A/7579 & 7580). In the present matter there are a number of objective facts that establish that the Athlete did not intend to violate the anti-doping rules: (i) his Sample shows low levels of epitrenbolone, (ii) no polypharmacy was found in his Sample; (iii) the negative hair test is inconsistent with intentional use of trenbolone, and (iv) the polygraph test is also inconsistent with intentional use of trenbolone. Hence, the default or starting sanction in this case would be two (2) years.

73. The Respondent adds that he was neither at fault nor negligent within the meaning of Article 10.5 of the WADC, as he had no reason to believe that the oxtail he was consuming from Moreno Bakery contained trenbolone. Thus, his sanction should be eliminated. In the alternative, and for the same reasons as explained above, the Respondent argues that he did not bear any Significant Fault or Negligence within the meaning of Article 10.6 of the WADC and that, accordingly, the standard period of ineligibility of two (2) years should be applied.

74. In light of all the above considerations, the Respondent requests the CAS to rule:

"*1. That the Award of the First Instance Tribunal be upheld; or*

2. Alternatively, that Appellants' submissions regarding sanction length be rejected.

3. The Appellants shall bear all costs of the proceedings including a significant contribution toward Respondent's legal fees".

V. THE WITNESS AND EXPERT EVIDENCE HEARD AT THE HEARING

75. In addition to the written evidence filed, at the hearing, the Panel heard the witness testimonies from Ms. Jaimalyn Ash (the Athlete's girlfriend), Ms. Laura Cain (the mother of Ms. Ash), Ms. Caitlyn Whitlock (the former manager of the Moreno Bakery) and the Athlete.

76. The Panel further heard expert evidence in form of two "hot tubs". The first was attended by Prof. Bradley J. Johnson, Dr. Juan de Dios Garza and Prof. Christian Ayotte (retained by the Appellants) as well as Dr. Anneleen Decloedt (retained by the Athlete) and focused on trenbolone meat contamination and trenbolone implants in cattle industry. The second was attended by Prof. Bradley J. Johnson, Prof. Christian Ayotte and Dr. Daniel Eichner (retained by the Appellant) as well as Prof. Pascal Kintz and Prof. Alberto Salomone (retained by the Athlete) and dealt with the pharmacokinetics of trenbolone in oxtail as source of the AAF.

77. The relevant parts of the witness testimonies may be summarized as follows:

- Ms. Ash, who has dated the Athlete for almost three years, stated that, including at the relevant time, he was taking great care about what he was putting into his body and that, apart from proteins, he was not taking any food supplements. She further stated that once the Athlete had been informed about the AAF, she and the Athlete tried to recollect what they had eaten during the relevant timeframe and recalled that they had an oxtail while visiting Ms. Ash's mother. According to Ms. Ash, who acknowledged that she likes oxtail, she did not eat much of the dish, as she had been bartending in Tampa and had been picking food at work. She stated that, from the dishes ordered by her mother from Moreno Bakery, she mainly ate, on the 22nd of March 2024, the pineapple upside down cake. She repeatedly stated she only had a little part of the oxtail and that the Athlete ate the biggest part over the 22nd and 23rd of March 2024.

- Ms. Cain described the Athlete as a humble person who is very focused on his career. She affirmed that, on the 22nd of March 2024, she bought, amongst other dishes, the oxtail at Moreno Bakery for her daughter who was coming to Tampa for work. She stated that she managed to retrieve a copy of the receipt of her order at Moreno bakery from her debit card information.

- Ms. Whitlock stated that, at the relevant time, she was the general manager at Moreno bakery and that the bakery was buying around six hundred (600) pounds

of oxtail a week. They had two providers, *i.e.* Cheney Brothers and Tampa State Company. The oxtail dishes sold each contained around two (2) pounds of oxtail. She also stated that she was contacted by people from the USADA and provided them, in May 2024, with some oxtail that Moreno Bakery had bought from Cheney Brothers.

- The Athlete explained that he played American football before getting into track and field and he participated in his first competition at the age of 15 years. He progressed fast and at 16 years old he ran the 200m in a time of 20.3 seconds. He continued to progress well and participated in the 2020 Tokyo Olympic Games where he finished 4th over the 200m. After some other promising results, he signed a professional contract at the age of 17 and started training with Coach Holloway at the beginning of 2021. He stated that he has been in the registered testing pool since 2021 and that he had received anti-doping education. He also stated that he had been tested 40 to 50 times. He testified that he was careful about what he put into his body and that at the time of the anti-doping test in March 2024, he was only taking some protein powder provided by one of his sponsors (he said "agency"). He stated that in March 2024 he was training and running 400m to build up strength and that he was not focusing on sprints. His goal for 2024 was to become Olympic champion. He stated that he never took trenbolone or any other banned substances. He added that he was questioned by the USADA about the oxtail meal he had on the 22nd of March 2024. He testified that the oxtail dish was a large portion and that Ms. Ash barely nibbled from the dish as she is not a big eater. He affirmed that he ate about half of the dish on the 22nd and the rest on 23rd of March 2024. He stated that he was relieved when he found out that the oxtail from Moreno Bakery contained trenbolone as that information seemed to him to provide an explanation and lifted some weight off his shoulders.

78. The discussion during the first expert "hot tub" may, in its relevant parts, be summarized as follows:

- Prof. Johnson stated that, since 2016, he has been involved in nearly 20 anti-doping cases concerning meat contamination. About one third of these cases involved 17-beta-trenbolone, *i.e.* the implant formulation trenbolone acetate, commonly and legally used, inter alia, in the USA, Mexico, Canada and Nicaragua. This product has been approved in the USA since 1987 and was deemed very safe when used for growth promotion in cattle. According to the literature and to his latest published article, the residues found in the edible tissues of the cattle so treated is in the range of 0.1 ng/gr. According to Prof. Johnson, the normal implant area for the trenbolone implants is behind the ear of the animals and it would be almost impossible to place such implant in the tail of the cattle, as shown by Daxenberger et al. in his 2000 paper. This is because the tail has a very high bone content. In the USA, the cattle normally receive several implants, one after another, the initial dose being around 100 mg and the following doses being increased (200mg) in order to obtain the same biological response out of the later implants. In response to a question from the Panel, Prof. Johnson declared that he has never seen trenbolone being injected in a feedlot (where cattle are kept prior to being sent to the abattoir). If trenbolone had been injected before the animals enter the feedlot, in his opinion there would

be no residues in these animals once they left the feedlot, due to the short half-life of trenbolone. Prof. Johnson further stated that Dr. Decloedt, in her evidence, was misreading one of his papers, as that paper was not about trenbolone but a different growth promoter, *i.e.* Ractopamine, and that the highest levels she refers to, *i.e.* 7,69 ng/gr were found in the liver and not in the muscle tissues. He acknowledged that no testing has been done for trenbolone in the USA since 2008 but stated that between 1987 and 2008, when testing did occur, they had found no violations of the residue levels prescribed at the time (50 ng/gr). He stated that the amount of beef imported into the USA from Central America countries like Nicaragua has increased and confirmed that the USA decided to reintroduce testing for trenbolone at the end of 2024.

- As to a possible injection of trenbolone into the tail head, Prof Johnson accepted that it could, theoretically, be possible that some of that compound "*could, so to speak, kind of leak*" into the tail. With respect to implants, he added that even if an implant were illegally placed into the tail head, there would be almost no effect on the concentration of trenbolone found in the tail. He went on to state that in the recent study published by Snethen (2025) the authors found residues of trenbolone in four (4) out of 40 tested samples, one of which was the sample recovered by the USADA at Moreno Bakery. The levels of residues found in those 4 samples, *i.e.* 0.1 to 0.2 ng/gr would be what most experts would have expected.

- Dr. Garza stated that it is almost impossible to place an implant into the tail of cattle. He affirms that it is the first time in 46 years of working in the industry that he hears that someone would place an implant somewhere else than the back of the ear. At Sukarne, they would keep track of all the implants from the moment the cattle arrive to the feedlot. The feedlots would be internally audited and there would be internal procedures in place to make sure the trenbolone implants are well placed. In case of a bad placement, the animals would not gain weight as wanted. At Sukarne, the last implant would be placed around 60 days prior to slaughter. Given that Sukarne would export to many different countries with different regulations, they would have internal rules to make sure that these regulations are respected. He further stated that he did not have any experience with injectables as he has been mainly involved in feedlots where injectables are not used. He testified that, normally, the animals would spend 150 days in the feedlot and that they are checked in the beginning to see whether they have implants. If they do, the implants would be removed. In any event, given the time spent by the animals in the feedlot, the residues of any implant or injection received before they entered the feedlot would have disappeared.

- Prof. Ayotte stated that she went through the available data for residues of trenbolone found in meat in Canada over a period of five to six years and that these data show that the residues found were at a level inferior to the allowed minimum (2 ng/gr). She acknowledged that she had not been able to review data from the USA but emphasized that the data she referred to came from meat that was imported into Canada from, inter alia, the USA and Central America. According to her, the literature shows that the residues found in meat are not sufficient to cause an AAF. The testing of meat and the testing of athletes does not support the idea that implants

in the cattle and concentrations found in the meat of cattle which had been subjected to implants would be able to cause an AAF. She further observed that a Canadian researcher has shown that even multiple simultaneously placed implants in the animals leave normal levels of residues in their muscles. According to her, when injected, trenbolone could diffuse into the close surrounding of the injection site, but not into the tail end.

- Dr. Decloedt stated that it is possible that the animals raised on smaller farms receive injectables before they arrive at the feedlots. She further stated that in order to place an implant behind the ear, you need an immobilization unit that smaller farms might not have and that such unit cannot be used out in the open where animals spend most of their time. Injectables would be oil-based and easy to use as they are just injected into the hind of the animal. Given that the meat in question in the present matter was coming from Nicaragua, the good agricultural practice followed in the USA would not be applicable to that meat. She stated that it is clear from a report from Prof. Johnson from 2025, that the concentrations (of trenbolone) found in the tested meat varied between 0.1 ng/gr and 6.5 ng/gr. She acknowledged that there was a difference in concentrations found in the liver and in the muscle tissue but considered that it is important to know the concentration of the implant and the moment of the placement before the slaughter. Given that, as mentioned by the other experts, the animals need re-implants with higher concentrations to maintain the expected beneficial effect, it would be clear that a new implant would give a new shot, with a new concentration peak. She further stated that the fact that injectables are not used in concentrated feedlots in the USA would not exclude their use in other countries. She confirmed that the USA had reintroduced multi-residue testing at the end of the year 2024. She also stated that the tail head is very popular for subcutaneous injections and that, theoretically it would also be perfectly possible to place an implant there. She added that injectables were easily available and that, for example in Mexico, you could buy them in a pharmacy. The injection would be very easy to do with a syringe and there would be videos on social media showing the practice of injections of anabolic steroids into the hind of the animals. She acknowledged that if the implants are correctly placed and no other illegal practices are applied, the levels of trenbolone residues that would be found in the meat would be in a range between 0.1 ng/gr and 0.3 ng/gr and below the concentrations allowed in the USA, *i.e.* 2.0 ng/gr.

79. The testimonies of the experts participating in the second "hot tub" may, in their relevant parts, be summarized as follows:

- Dr. Eichner stated that according to the data set (500.000 data points) that they have at the SMRTL, it would not be consistent with those data to consider that meat contamination could cause AAFs for trenbolone at the concentration seen in anti-doping test of elite athletes. This conclusion is corroborated by the fact that this data set includes not just athletes but covers the general population. Many active trenbolone users would use polypharmacy and at the SMRTL they found very few cases of standalone trenbolone findings with low concentrations, which cases would not be consistent with meat contamination. In response to a question from the Respondent, Dr. Eichner stated that for a concentration of 1.3 ng/mL to be

consistent with meat contamination, a large array of circumstances would have to line up. He further stated that a three-week period between a negative test and an AAF, like in the case at hand, would be a very large time period in the analytical world and is not, of itself, determinative. Given the fast clearance time of trenbolone and the fact that there would just be a single data spot recording the concentration measured in the Athlete's urine, it would be difficult to determine when the exposure to trenbolone occurred. Finally, as regards the conclusions that could be drawn from hair testing, he stated that he likes hair testing but that it has its limitations, one of which being that a negative finding does not reveal much. In his opinion, it could not negate an AAF in the blood or urine and in most circumstances a negative test would not be useful.

- Prof. Ayotte stated that in light of the almost 300.000 athletes' samples which were tested in the Montreal Laboratory, a concentration like the one detected in the present matter, *i.e.* 1.3 ng/mL, is not consistent with a meat contamination scenario. The data from the Montreal Laboratory, which mainly analysed samples from Canada, the USA and Mexico, did not show that meat contamination is a concern for trenbolone findings. Trenbolone implants have been used for many years already in the cattle industry and in the USA and in Canada, and such use did not translate into AAFs by athletes. The consumption of muscle tissue of animals is no source of concern for trenbolone findings and the levels that are expected to be found in the meat of the animals treated with trenbolone would be insufficient to produce an AAF. Prof. Ayotte expressed her view that, considering that top athletes know that they are subject to anti-doping controls, one would not expect them to take the same dosage of anabolic steroids as other active users, *i.e.* the ones using polypharmacy. She further gave the opinion that an intake or injection of 100 mg of testosterone or other steroids could not be detected in a hair analysis. Only a full cycle of several weeks with a massive dosage would show in such an analysis. Hypothesising a single dose or micro dosage, she commented that neither would be detectable in hair. As regards the percentage recovery from a known quantity of trenbolone in meat (relevant to the measurement by the USADA of the meat sample provided to it by Moreno Bakery), Prof. Ayotte stated that for boldenone this percentage is about 90 %. According to her it is thus possible to have a recovery of 90 % for trenbolone.

- Prof. Johnson stated that maximum residue levels of trenbolone authorized in meat in the USA is 2 ng/gr, but that the data show that the actual residue of trenbolone in beef muscle tissue is much lower, *i.e.* 0.05 to 0.2 ng/gr. He further observed that, in the present case, the time elapsed between the alleged consumption of the oxtail and the anti-doping test is long. In other cases in which the athlete claimed to have consumed meat potentially contaminated with trenbolone, that consumption was supposed to have occurred the day before the test and not, as in the present matter, three (3) to four (4) days prior. Prof. Johnson expressed his view that a single intake or injection of 100 mg trenbolone would clearly have a major effect at the skeletal muscle level to improve performance. Regarding the percentage recovery from a known quantity of trenbolone in meat, Prof. Johnson stated that this percentage is

very high and, in his opinion, meat, as a matrix, is no different from any other matrix, *i.e.* hair, urine or blood.

- Prof. Kintz testified that he was asked to analyse hair samples of the Athlete and that both specimens he tested were negative, indicating clearly that the Athlete was not on a cycle of trenbolone. Trenbolone would have to be used in a cycle of 6, 8 or 10 weeks each day in order to have an effect on the athlete and such cycle would show up in the hair analysis. The source of the AAF in the present matter could, in his opinion, be the oxtail consumed by the Athlete. He noted that there are inter-individual variations in animals. Further, the present case does not involve polypharmacy and the concentration levels detected in the Athlete's sample are in the low range. Hence, based on Dr. Eichner's report, the other findings, the data and the relevant parameters, he concludes that the present case is more consistent with an incidental exposure. The Athlete does not fit the profile of the standard abuser of trenbolone. This finding is also backed by the fact that there is no polypharmacy and that the concentrations of trenbolone detected in the athlete's urine are low. Prof. Kintz stated that he has not seen any published study paper that would allow the conclusion that in humans, an intake or injection of 100 mg of trenbolone would have a physiological effect. The discussion on the possible effects of such an intake or injection would thus, in his view, be speculative. As to the significance of hair tests, he stated that, since the year 2000 when he published a paper about testosterone esters, the equipment has become a lot more sensitive and that no one has published or tested a single administration of trenbolone and its detection in human hair. In response to a question from the WADA, Prof. Kintz stated that he could not indicate a minimum dose that will be certainly detectable in hair, or several doses or whatever. As regards the percentage recovery from a known quantity of trenbolone in meat, Prof. Kintz stated that this percentage is unknown as there is no reference meat with a known quantity of trenbolone inside the fibers. Meat is, in that regard, different from blood and urine as the latter are liquid and not solid. There is no proper control, since the only controls available would be pieces of meat spiked in the laboratory.

- Prof. Salomone stated that after having analysed the accuracy of quantitative measurement produced in the oxtail meat sample and in the urine collected from the Athlete, he believes that the procedures used to produce those numbers are flawed and that the pharmacokinetic calculations suffer some limitations because of these flaws. The only thing that could be said with certainty is that the Athlete was exposed to trenbolone. He further stated that the hair analysis usually provides quite conclusive answers. It is either a "use" or a "non-use". In the present matter, there is a lot of speculation as to the source of the AAF, but all are based on the concentration found in the Athlete's urine. However, the concentration measured is affected by many factors and should not be taken in terms of analytical determination and regarded as definitive. In his view, a scenario involving one single shot of anabolic steroids would not be realistic in the present case. In relation to the percentage recovery from a known quantity of trenbolone in meat, Prof. Salomone stated that the validation of the processes is a very important step in the peer review process. Validation would always be requested from the authors

before accepting an article for publication. However, in the article published by Snethen and Prof. Johnson, in which the oxtail was analysed, there is no mention of the validation, the recovery rate or the matrix effect. Furthermore, the calibration is based on one single point only, which is against any guidelines in analytical chemistry or any type of application. In terms of scientific soundness, this publication would thus have some limitations. The method used may be good enough for a qualitative analysis, but it would not be adequate to produce a quantitative measurement of trenbolone and the other analytes. He also stated that, given that oxtail is very different from muscle, liver or kidney tissues, a recovery matrix rate calculated for these tissues could not be applied to the oxtail measurement. In light of this, one should be very careful when assessing the results of the findings published by Snethen e.a.

VI. JURISDICTION

80. Article R47 of the CAS Code provides as follows:

"*An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body*".

81. Pursuant to Article 13.2 of Annex A to the USADA Protocol:

"*A decision that an anti-doping rule violation was committed, a decision imposing Consequences or not imposing Consequences for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed [...] may be appealed exclusively as provided in this Article 13.2*".

82. Article 13.2.1 of Annex A to the USADA Protocol provides as follows:

"*In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS*".

83. In the present matter, it is uncontested that the Respondent is an International-Level Athlete within the meaning of Annex A to the USADA Protocol and none of the Parties objected to the CAS jurisdiction.

84. Moreover, all Parties confirmed such jurisdiction by signing the Order of Procedure.

85. In view of the above, the Panel confirms that the CAS has jurisdiction to decide on the present appeals.

VII. ADMISSIBILITY

86. Article R49 of the CAS Code provides as follows:

"*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties*".

87. Pursuant to Article 13.2.3.4 of Annex A to the USADA Protocol, the "*deadline to file an appeal for parties other than WADA shall be as provided in the rules of the Anti-Doping Organization conducting Results Management*".

88. As regards the appeal filed by WA, the relevant deadline is, thus, the one set out in the USADA Protocol. According to Article 17 b) of said Protocol:

"*Subject to the filing deadline for an appeal filed by WADA as provided in Article 13.2.3.5 of the Code, the final award by the arbitrator(s) may be appealed to the CAS within twenty-one (21) days of issuance of the final reasoned award or when an award on eligibility without reasons is deemed final as set forth below. If the arbitrators issue an award on eligibility without reasons, such award shall be deemed final for purposes of appeal to CAS on the earlier of (a) issuance of the final reasoned award by the arbitration panel, or (b) thirty (30) days from issuance of the award without reasons. The appeal procedure set forth in Article 13.2 of Annex A shall apply to all appeals, not just appeals by International-Level Athletes, Athlete Support Personnel, or other Persons. A CAS appeal shall be filed with the CAS Administrator, the CAS hearing will automatically take place in the United States (subject to CAS procedural rules) and CAS shall conduct a review of the matter on appeal which, among other things, shall include the power to increase, decrease or void the sanctions imposed by the previous arbitration panel regardless of which party initiated the appeal. The regular CAS Appeal Arbitration Procedures apply. The decision of CAS shall be final and binding on all parties and shall not be subject to further review or appeal subject to the right under Swiss law to challenge the decision before the Swiss Federal Tribunal*."

89. In the present matter, the operative part of the Appealed Decision, issued on 19 June 2024, was notified to WA on 20 June 2024, whereas the reasoned version of the Appealed Decision was notified on 19 July 2024. The latter date being the earliest of the two dates set out in Article 17 b) of the USADA Protocol, the deadline of twenty-one (21) days foreseen in the same provision came to an end on 9 August 2024. The Appeal filed by the WA on 8 August 2024 has thus been filed within the prescribed deadline and is admissible.

90. As regards the Appeal filed by the WADA, and as set out in Article 17 b) of the USADA Protocol, the relevant deadline is the one prescribed in Article 13.2.3.5 of Annex A to the USADA Protocol. This provision reads as follows

"*The filing deadline for an appeal by WADA shall be the later of:*

a) Twenty-one (21) days after the last day on which any other party having a right to appeal could have appealed, or

(b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision."

91. In application of this provision and considering that WA's deadline to file an appeal was on 9 August 2024, the WADA's deadline to file an appeal came to an end on 30 August 2024. By filing its Statement of Appeal on 14 August 2024, the WADA has manifestly respected that deadline. Consequently, the WADA's appeal is also admissible.

VIII. APPLICABLE LAW

92. Article R58 of the CAS Code provides as follows:

"*The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision*".

93. The Appealed Decision was rendered by the Arbitration Tribunal in application of the USADA Protocol, in particular its Annex A which incorporates the Articles of the WADC into this Protocol. There is no dispute as to the applicability of the Articles of the WADC in the present matter.

IX. MERITS

94. In the present matter, it is common ground between the Parties that the Athlete committed an ADRV within the meaning of Article 2.1 of Annex A to USADA Protocol, which corresponds – insofar as relevant – to the WADC, for the presence of epitrenbolone, a metabolite of trenbolone. Trenbolone is a Prohibited Substance and is listed under S.1.1 of the 2024 WADA Prohibited List as a non-Specified Substance that is prohibited at all times.

A. The Relevant Provisions

95. According to Article 10.2.1 of the WADC (Annex A to the USADA Protocol), the period of Ineligibility, subject to Article 10.2.4, shall be four (4) years where the ADRV "*does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional*".

96. The comment to Article 10.2.1.1 specifies that *"[w]hile it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in*

proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance".

97. Article 10.2.3 of the WADC (Annex A to the USADA Protocol) provides:

"*As used in Article 10.2, the term 'intentional' is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. [...]*".

98. Pursuant to Article 10.5 of the WADC (Annex A to the USADA Protocol):

"*If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated*".

99. Article 10.6.1.2 of the WADC (Annex A to the USADA Protocol) provides:

"*In cases where the Athlete or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the Athlete or other Person's degree of Fault*".

100. The comment to Article 10.6.1.2 reads as follows:

"*In order to receive the benefit of this Article, the Athlete or other Person must establish not only that the detected Prohibited Substance came from a Contaminated Product, but must also separately establish No Significant Fault or Negligence. It should be further noted that Athletes are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the Contaminated Product, whether the Athlete had declared the product which was subsequently determined to be contaminated on the Doping Control form. This Article should not be extended beyond products that have gone through some process of manufacturing. Where an Adverse Analytical Finding results from environment contamination of a "non-product" such as tap water or lake water in circumstances where no reasonable person would expect any risk of an anti-doping rule violation, typically there would be No Fault or Negligence under Article 10.5*".

101. In the Appendix 1 of the WADC (of the Annex A to the USADA Protocol), the concept of No Significant Fault or Negligence ("NSFN") is defined as follows:

"*No Significant Fault or Negligence: The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking*

into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation. Except in the case of a Minor, Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system".

102. In the same Appendix 1, the concept of "No Fault or Negligence" ("NFN") is defined as follows:

"*No Fault or Negligence: The Athlete or other Person's establishing that he or she did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Minor, Protected Person or Recreational Athlete, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system*".

B. The Burden and Standard of Proof

103. As is clear from the above provisions, the burden of proving that the ADRV was not intentional, within the meaning of Article 10.2.3 of the WADC (Annex A to the USADA Protocol), lies on the Athlete. Further, according to this provision, the Athlete is required to prove that his ADRV was not deliberate (direct intent) nor reckless (indirect intent).

104. As to the standard of proof applicable to the Athlete, Article 3.1 of the WADC (Annex A to the USADA Protocol) provides, in its relevant parts, that "*[w]here the Code places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability*".

105. As recalled by some CAS panels, according to predominant line of jurisprudence, this standard of proof requires the athletes to establish that "*the occurrence of a specified circumstance is more probable than its non-occurrence*" or, in other words, the athletes must establish that the facts they rely on are more likely than not to have occurred (more than 50%) (CAS 2024/A/10655).

106. Pursuant to another line of jurisprudence, it is sufficient for athletes to prove that the theory put forward by them is the most likely among several scenarios (see, e.g., CAS 2007/A/1370 & 1376, para. 58; CAS 2008/A/1515, para. 116; CAS 2012/A/2986, para. 69; CAS 2011/A/2384 & 2386, paras. 111-113). The Panel considers that, as is clear, for example, from the award in CAS 2011/A/2384 and 2386 (paras. 102 to 106), this second line of jurisprudence is mainly inspired by the thought that in some cases the athletes have to prove a negative fact and that principles of procedural fairness impose, in such a case, a duty of cooperation on the counterparty. Hence, while it is accepted that, in the present matter, neither WA nor the WADA have the burden of establishing that scenarios alternative to the one advanced by the Athlete caused the AAF, the lack of sufficiently plausible alternative scenarios presented to the Panel may assist the Athlete in meeting his burden of proof (CAS 2024/A/10655). However, it must be

recalled that, ultimately, the burden of proving that the ADRV was not intentional lies with the Athlete.

C. The Position of the Parties

107. In the present matter, the Athlete argues, primarily, that the ADRV was caused by the ingestion, on 22 and 23 March 2024, of an oxtail dish that was contaminated with trenbolone. He asserts that he did not know that eating that dish would result in an AAF (direct intent) or that there was a significant risk that the ingestion of that dish might constitute or result in the AAF (indirect intent). Thus, he should benefit from Article 10.5 of the WADC, and no sanction should be imposed on him. By way of a subsidiary argument, in case the Panel were to find that the Athlete has not established – on the balance of probabilities – how the trenbolone had entered his system, he submits that he has established that the ADRV was not intentional.

D. Preliminary Points

108. As a preliminary point, the Panel notes that it agrees with the Athlete insofar as if it were to accept that it is more likely than not that the oxtail contamination scenario brought forward by the Athlete has caused the AAF, the Athlete would, on basis of Article 10.5 of the WADC, be entitled to benefit from a full elimination of the otherwise applicable sanction.

109. As regards the question of whether in order to establish lack of intent, within the meaning of Article 10.2 of the WADC, the Athlete has to establish the source of the Prohibited Substance found in his Sample, the Panel notes that unlike the definitions of NFN (Article 10.5 of the WADC) and NSFN (Article 10.6 of the WADC), the wording of this provision does not require the Athlete to establish how that Substance entered their system in order to claim that the ADRV was not intentional. However, according to constant CAS jurisprudence, apart from extremely rare cases (see CAS 2016/A/4534, CAS 2016/A/4676, and CAS 2016/A/4919), an athlete must establish how the prohibited substance entered their system in order to discharge the burden of establishing the lack of intention (CAS 2016/A/4377, CAS 2023/A/9377). This is also clear from the abovementioned comment to Article 10.2.1.1 of the WADC.

110. To establish the origin of the prohibited substance, it is not sufficient for an athlete to merely protest their innocence and suggest that the substance must have entered their body inadvertently from a supplement, medicine, or other product. Rather, an athlete must adduce concrete evidence to demonstrate that a particular supplement, medication, or other product that the he or she has taken did contain the substance in question. For example, details about the date of intake, the location and route of intake, or any other details about the ingestion are necessary (CAS 2017/A/5248).

111. In this regard, the Panel concurs with other CAS panels which considered that the requirement of showing how the Prohibited Substance got into an athlete's system must be enforced rather strictly since, if the manner in which a substance entered in athletes system is unknown or unclear, it is logically difficult to determine whether the athlete has taken precautions to prevent such occurrence. The threshold requirement of showing

how the substance entered an athlete's system is to enable, *inter alia*, the CAS to determine the issue of fault on the basis of facts and not speculation (CAS 2012/A/2760). In the Panel's view, an athlete has to adduce some cogent evidence showing that his or her explanation for the AAF, in the present matter the oxtail contamination scenario, is scientifically plausible (CAS 2017/A/5296). Therefore, there must be a causal link between the allegedly contaminated product ingested, and the Prohibited Substance found in the athlete's system (CAS 2023/A/10025 & 10227).

112. Finally, regarding the above mentioned "*extremely rare cases*" in which a ADRV may be deemed unintentional even if an athlete has failed to prove the source of a prohibited substance, the Panel considers that in such a case an athlete has to establish lack of intention with other robust evidence, such as the possibility that the prohibited substance came from a specific product, the athlete's credible testimony, evidence by the athlete's doctors that the athlete had no intent to use a prohibited substance, or the implausibility of a scenario that the athlete intentionally used prohibited substances (CAS 2017/A/5248 and CAS 2023/A/10273). Or, as the CAS Panel in CAS 2023/A/9451, 9455 & 9456 has summarized it:

"*An athlete must provide actual evidence to support his protestations of innocence; he or she must provide 'concrete and persuasive evidence establishing such lack of intent on the balance of probabilities'; protestations of innocence, however credible they appear, 'carry no material weight in the analysis of intent' [...]. The same applies to a 'lack of a demonstrable sporting incentive to dope, diligent attempts to discover the origin of the prohibited substance or the athlete's clean record', which have constantly been rejected as justifications for a plea of lack of intent [...]*".

E. Applying the above Principles to the Case at Hand

113. In the present matter, the Athlete has only put forward a single scenario to explain the presence of epitrenbolone in his Sample, *i.e.* the oxtail contamination scenario.

114. Regarding this scenario, the Panel considers that the Athlete has produced sufficient factual evidence to establish that he, and his girlfriend, consumed the oxtail dish bought by Ms. Cain at Moreno Bakery on 22 March 2024. The Panel also sees no reason to doubt the testimony of the Athlete and Ms. Ash according to which he ate the biggest part of that dish over two days, *i.e.* 22 and 23 March 2024, and accepts, on basis of the meat analysis done by SMRTL, that it is likely that oxtail dishes bought at Moreno Bakery at or around the relevant dates contained residues of trenbolone. Finally, the Panel also accepts, on basis of the expert testimonies heard during the hearing, that it is scientifically possible that the consumption of meat containing trenbolone at sufficient levels can lead to an AAF for that substance or its metabolites.

115. However, the Panel finds that some of the assumptions made by the experts appointed by the Athlete appear, on basis of the evidence in front of the Panel, as highly unlikely. In particular, even when approaching the issue of source with common sense and taking into consideration the premises most favourable to the Athlete, there is no evidence before the Panel that would support the conclusion or the inference that oxtail from cattle imported by Sukarne (or any other big producer) into the USA would be likely to

contain trenbolone residues at the level required to have caused the Athlete's AAF. There is speculation that a particular animal purchased by Sukarne could have been injected with trenbolone in or near the tail but the evidence before the Panel is that such trenbolone residue would have been eliminated prior to the meat being imported, at the least during the feedlot process.

116. In this regard, the Panel notes that, as stated in the joint report of Prof Kintz and Prof. Salomone and as reiterated by Prof. Kintz during the hearing, a reasonable estimation of the ingested dose to cause the AAF (estimated at 1,1 ng/mL after 72 hours) would be approximately 0.01 mg to 3 mg. For such a dose to have come from the oxtail dish bought at Moreno Bakery, and assuming that the Athlete ate most of the 2 pounds of oxtail contained in that dish, the oxtail should have, according to the Athlete's expert Prof. Kintz, contained around 20 ng/g of trenbolone. According to the expert report of Prof. James T. Dalton, submitted by the Appellants, and which, in the Panel's view, may also be considered as containing assumptions favourable to the Athlete, that oxtail dish would have had to contain approximately 38 ng/g of trenbolone. However, it must be noted that even when taking into consideration several variables acknowledged by the experts in relation to the pharmacokinetics calculations, *i.e.* (i) that the concentration of epitrenbolone detected in the Sample was an estimation; (ii) that the excretion rate of trenbolone is not 100% established given that there might be inter-person variabilities; (iii) the exact amount of oxtail meat effectively ingested by the Athlete; (iv) the concentration of the trenbolone residue in the consumed oxtail; (v) the elimination time, (vi) the nature of the substance ingested (trenbolone vs. trenbolone acetate) and (vii) the quantity of urine provided by the Athlete in his Sample, there is no evidence showing that the levels of residues of trenbolone or trenbolone acetate necessary for causing an AAF at the levels detected has, ever since the allowed maximal residue levels have been reduced to 2.0 ng/g in the USA, been found in a meat sample tested and analysed in the USA, Canada or even anywhere else. Even the levels of trenbolone concentrations referred to by Dr. Decloedt that were obtained from the liver of cattle are not within the range of concentrations that would have been required to explain the concentration of epitrenbolone found in the Athlete's Sample three days after the ingestion of the oxtail dish.

117. The Athlete's argument that a misplaced implant or an injection of trenbolone in the hind of the animal shortly before slaughtering could have resulted in an abnormally high concentration of trenbolone in the oxtail sold by Moreno Bakery is speculative and is contradicted by the evidence. Indeed, first, as convincingly explained by Prof. Johnson and Dr. Garza and not contested by Dr. Decloedt, in large feedlots, like the ones run by Sukarne, where the meat in question in the present case came from, implants are regularly placed behind the ears. Second, Dr. Decloedt's evidence as to injections in the hindquarters was largely addressing the possible practice of farmers from who Sukarne obtained some cattle. There is no indication that, in the feedlots run by Sukarne where the cattle are placed prior to export to the USA, injections are used. Rather, and third, the evidence is that implants are used and are not placed in the hind of the animals but behind the ears. Fourth, while it was acknowledged by Prof. Johnson that in a case of injection of trenbolone into the tail head, some of that compound could, theoretically, disperse into the tail itself, the theory that has been advanced that these injections could

occur before the animals come to the feedlot does not render very high residues in the oxtail in question likely, as the residues left by these injections (and even any misplaced implants) would have disappeared by the time of slaughter.

118. Hence, although the oxtail contamination scenario brought forward by the Athlete to explain the AAF is not, *per se*, scientifically impossible, the Panel finds that one of the main premisses of this hypothesised scenario, *i.e.* that the ingested oxtail contained enough trenbolone residues to have caused that AAF, does not, in light of the factual evidence submitted in the present matter, seem plausible and certainly not more likely than not.

119. This finding is not affected by the argument, raised by the Appellant, that he has provided more evidence than any other athlete in previous meat contamination cases given that, *inter alia*, in the present case there is evidence that two out of two analysed oxtail samples from Moreno Bakery contained trenbolone, and that there is nothing else he could have done to prove that the ingested oxtail dish was the source of the AAF. Indeed, the Panel considers that, in light of the fact that the levels of trenbolone residues found in the two mentioned oxtail samples were well below the levels necessary to explain, on the assumptions of his own experts, the concentration of epitrenbolone found in his Sample, the Athlete could have made efforts to procure several more samples of oxtail from Moreno Bakery (or from any other source in the USA) and have them analysed with the aim of establishing that some of these samples contained concentrations of trenbolone residues within or closer to the range referred to by these experts.

120. In light of the above considerations, the Panel concludes that the Athlete has not established, on the balance of probabilities, that it is more likely than not that the oxtail dish he ingested on 22 and 23 March 2024 was the source of the level of epitrenbolone found in his Sample.

F. Lack of Intention

121. As the Athlete has not put forward any other potential source of how the substance entered his system, it remains to be examined whether the Athlete has overcome his burden to establish, on the evidence that, on the balance of probabilities, his ADRV was not intentional.

122. In this regard, as already mentioned above, the Athlete refers to several other factual elements which, according to him, objectively establish that he did not intend to violate the USADA Protocol or any other anti-doping rules, *i.e.* (i) that his Sample shows a low level of epitrenbolone, which would not have had a performance enhancing effect, (ii) that his test did not reveal any polypharmacy; (iii) that his negative hair test is inconsistent with intentional use of trenbolone, and (iv) that his polygraph test is also inconsistent with intentional use of trenbolone. He also draws attention to the fact that the measurements of the level of epitrenbolone in his Sample were by a qualitative test and subject to a number of variables, as explained above. Looking at the results and

giving the benefit of those variables to the Athlete, the actual amount of epitrenbolone would be lower than the measurement recorded and any reason intentionally to take trenbolone called further into question. This, in turn would, it is submitted, contradict a doping scenario.

123. First, regarding the levels of epitrenbolone found in his Sample, the Panel notes that it is true that in light of the SMRTL data referred to by Dr. Eichner concerning trenbolone cases, a concentration like the one found in the Athlete's Sample appears to be low (only 57 out of 73 samples tested for trenbolone contained more than 2 ng/mL out of which 50 contained more than 10ng/mL). These figures, however, do not of themselves support any conclusion as to the intentional or unintentional intake of trenbolone. Indeed, given that an anti-doping test only provides a single spot determination of the concentration of a certain substance, there is not much that can be deduced from such a test, except that a given substance (or its metabolites) is present in the urine of an athlete.

124. The Panel acknowledges that, when put into context and compared with the results of other tests of an athlete, conducted briefly before and/or briefly after the relevant test, it cannot be excluded that the low concentrations could indicate an unintentional ingestion or exposure to a certain substance.

125. In the present case, there were two negative anti-doping tests in proximity to the positive test date, from 1 March 2024 and 14 April 2024. These tests exclude that the Athlete applied – what his expert Prof. Kintz described as – a normal doping cycle, *i.e.* a daily intake of trenbolone over a period of 6, 8 or 10 weeks. However, accepting this conclusion, nothing else may be reasonably inferred from these two negative tests as they do not exclude the possibility of a voluntary ingestion of, for example, a single dose of 100 mg of trenbolone on 10 March 2024, as suggested in the report of Prof. Dalton, or repetitive microdosing.

126. The Panel notes that the expert "hot tub" on the subject did not allow the Panel to draw a clear conclusion as to the possible physiological benefits of a single dose or the benefits obtained from microdosing with trenbolone. Therefore, the Panel cannot draw any inference from the above as to the likelihood of an unintentional intake of trenbolone by the Athlete. Indeed, while the Panel is aware that some CAS panels (CAS 2020/A/7579 & 7580 and CAS 2024/A/10655) considered that it is up to the adjudicating bodies to assess, with respect to each particular athlete before them, how likely it was for that athlete to have intentionally taken the specific substance at stake, the Panel considers that an intentional ingestion of a prohibited substance cannot be excluded only on the basis that it is not scientifically established if and to what extent a specific intake – given the substance and/or the probable dosage – would have a performance enhancing effect or would not make sense for that athlete.

127. Indeed, first, as is clear from Article 10.2 of the WADC, for an ADRV to be considered "intentional" it is not necessary for the athlete to have effectively benefitted from a performance enhancing effect nor is it required that the use of the relevant substance or method make scientific "sense" in the context of a doping scenario. Second, the fact that it can be excluded that an athlete has taken the dosage recommended in online-fora for dopers, does not, *per se*, exclude an intentional intake of that substance. Indeed, an

athlete may try to avoid positive test results by reverting to smaller dosages in order to stay below the reporting levels, detection limits or in order to reduce the detection window (CAS 2024/A/10273). Third, the fact that there is no published study regarding the effects in humans of a single dose of 100 mg of trenbolone or for microdosing with trenbolone does not exclude an intentional intake of that substance *per se*, or renders it unlikely. In this regard, the Panel notes that, during the hearing, Prof. Johnson explained, without being contradicted, that an intake of a 100 mg dose of trenbolone has a major effect on the skeletal muscle level and Dr. Eichner stated, also without being contradicted, that the intake of trenbolone has, in principle, erythropoiesis effects. Finally, the Panel notes that, as mentioned by the Athlete during his testimony, in March 2024 he tried to build up strength by running 400m and did not compete between mid-February (indoor event in France) and the beginning of April (400m and relays in Florida, USA). An intentional intake of trenbolone, given the potential effects, does not appear nonsensical to the Panel in such context. In view of the above, the Panel does not consider that an unintentional intake of trenbolone is, on the balance of probabilities, more likely than not.

128. Second, the Panel is aware that in the Athlete's case there is absence of polypharmacy. Furthermore, Dr. Eichner has clearly put some emphasis on the fact that the data from SMRTL revealed that 65 % of the samples that were positive for trenbolone also contained other prohibited substances (testosterone, clomiphene, boldenone, nandrolone, methenolone, selective androgen receptor modulators and other anabolic steroids). However, the only inference that can be drawn from the absence of polypharmacy is that the Athlete was clearly not on a "stacking" program. However, the absence of polypharmacy does, in the Panel's view, neither exclude unintentional ingestion (for example through contaminated meat) nor an intentional ingestion of trenbolone by the Athlete.

129. As regards, third, the results of the Athlete's hair analysis, the Panel notes that the experts agreed that, given the method applied for the hair analysis in the present matter, a single intake of trenbolone or multiple very low doses (microdoses) of trenbolone cannot be detected in hair. As Prof. Kintz stated during at the hearing, the Athlete's negative hair analysis only allows to rule out a regular use (cycle of 6, 8 or 10 weeks) of relatively large doses of trenbolone. Prof. Kintz admitted that he did not know whether he was able to detect an intake of one dose of 1 mg, 10 mg or 20 mg each day over a period of seven (7) days in the hair of an athlete. Hence, in the Panel's view, the results of the hair analysis provided by the Athlete are, in the present matter, of no help to the Athlete when it comes to establishing whether the ADRV was not intentional as a six (6) weeks long cycle of intentional intake of so-called "regular" or "normal" doses of trenbolone can, on the basis of the negative anti-doping tests provided by the Athlete on 1 March 2024 and 14 April 2024, in any event be excluded.

130. With regard, fourth, to the results of the polygraph test provided by the Athlete, the Panel points out that the question asked to the athlete and the legal question to be answered by the Panel are not congruent. The term "intentional" is defined in Article 10.2.3 WADC and covers not only direct, but also indirect intent. Furthermore, the evidentiary value of polygraph tests must be assessed with care. Their reliability is limited. This also follows from the jurisprudence of the Swiss Federal Tribunal and the

CAS (see e.g. SFT 6B_663/2011 para. 1.3; SFT 6B_708/2009 para. 1.6; SFT 109 Ia 273 para. 7; CAS 1999/A/246, para. 9; CAS 1996/A/157, para. 14; CAS OG 00/006, para. 40d; CAS 2008/A/1515, para. 119; CAS 2017/A/4954; CAS 2017/A/5954; CAS 2021/A/7768). Polygraph tests may have limited probative value limited to specific instances and alongside other evidence (CAS 2011/A/2384 & 2386; CAS 2019/A/6313). However, that present case is a different matter.

131. Thus, the Panel considers that, in the present matter, the polygraph test – if admissible as evidence – has very limited evidentiary value, if any and cannot, in absence of any other convincing strands of evidence, assist the Athlete in his quest to establish that, on the balance of probabilities, the ADRV was not intentional.

132. In light of all the above considerations, the Panel concludes that the Athlete, on the balance of probabilities, has not been able to rebut the presumption according to which his ADRV was intentional. The Panel emphasizes that this does not mean that the Panel is convinced that the Athlete intentionally ingested (or injected) trenbolone, but that the Athlete failed to establish, according to the relevant standard of proof, that his ADRV was not intentional.

133. Consequently, the Panel finds, contrary to the Appealed Decision, that the ADRV committed by the Athlete must be qualified as intentional within the meaning of Article 10.2.1 of the WADC (Annex A to the USADA Protocol) and that the applicable sanction is a four (4) period of Ineligibility.

134. According to Article 10.13 of the WADC, the period of Ineligibility shall "*start on the date of the final hearing decision providing for Ineligibility*", *i.e.* in the present case the date of the notification of the present Award.

135. Further, given that the Athlete has been provisionally suspended from 12 April 2024 to 19 June 2024, this period shall be, pursuant to Article 10.13.2 of the WADC, credited against the four (4) year period of Ineligibility to be served.

136. Finally, pursuant to Article 10.10 of the WADC (Annex 1 to the USADA Protocol), all "*competitive results of the athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-competition) [...] through the commencement of any Provisional Suspension or Ineligibility period shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences, including forfeiture of any medals, points and prizes*". In the present matter, this would mean that all the results obtained by the Athlete from 26 March 2024 until the day of notification of the present award would, in principle, be disqualified.

137. However, in the present case, the Panel considers that fairness requires that only the results obtained by the Athlete from 26 March 2024 until his provisional suspension on 12 April 2024 must be disqualified. Indeed, on the one hand, it appears from the expert evidence that the potential performance-enhancing effect of the Athlete's ADRV, at best, lasted a few months and, on the other hand, it is uncontested that, after his provisional suspension had been lifted, the Athlete has been tested numerous times without any of his samples returning an AAF. Thus, the Athlete's results from 20 June

2024, *i.e.* the end of his provisonal suspension, to the day of notification of the present award may be regarded as unaffected by the ADRV the object of the present appeals.

138. In view of the above considerations, the Panel concludes that the Appellants' Appeals are partially upheld and that the Appealed Decision must be set aside.

139. Any other and further claims or requests for relief on the merits are dismissed.

X. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed by the World Athletics (WA) against Mr. Erriyon Knighton (*CAS 2024/A/10800*) with respect to the decision rendered by the New Era Arbitration Tribunal on 18 July 2024 is partially upheld.
2. The appeal filed by the World Anti-Doping Agency (WADA) against Mr. Erriyon Knighton (*CAS 2024/A/10802*) with respect to the decision rendered by the New Era Arbitration Tribunal on 18 July 2024 is partially upheld.
3. The decision rendered by the New Era Arbitration Tribunal on 18 July 2024 is set aside.
4. Mr. Erriyon Knighton is sanctioned with a four (4) year period of ineligibility, starting on the date of notification of the present Award. The period of provisional suspension served by Mr. Erriyon Knighton between 12 April 2024 to 19 June 2024, shall be credited against the four (4) year period of ineligibility to be served.
5. Mr. Erriyon Knighton's competition results in the period from 26 March 2024 to 12 April 2024 are disqualified, with all resulting consequences, including forfeiture of any medals, titles, ranking points and prizes.
6. (…).
7. (…).
8. (…).
9. (…).
10. All other and further claims or prayers for relief are dismissed.

Dated: 12 September 2025

COURT OF ARBITRATION FOR SPORT

Jacques Radoux
President of the Panel

Ulrich Haas
Arbitrator

Annabelle Bennett AC SC
Arbitrator