TAS / CAS
TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2025/A/11336 World Anti-Doping Agency (WADA) v. UKAD and Laurie Evans

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr. Vladimir Novak, Attorney-at-law in Brussels, Belgium.

Arbitrators: Mr. Jan Paulsson, President of the Bahrain International Commercial Court, Bahrain.

Prof. Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-law in Hamburg, Germany.

in the arbitration between

World Anti-Doping Agency, Canada.

Represented by Ms. Louise Reilly SC, Mr. Nicolas Zbinden and Mr. Robert Kerslake of Kellerhals Carrard, Lausanne, Switzerland.

Appellant

and

United Kingdom Anti-Doping Limited, United Kingdom.

Represented by Mr Alasdair Muller, Bird & Bird LLP, London, United Kingdom.

First Respondent

and

Mr. Laurie Evans, United Kingdom.

Represented by Mr. Mike Morgan, Mr. Tom Seamer and Mr. Sam Comb of Morgan Sports Law, London, United Kingdom.

Second Respondent

I. PARTIES

1. The World Anti-Doping Agency ("WADA" or the "Appellant") is the international independent agency established by the International Olympic Committee and governments to promote, coordinate and monitor the fight against doping in sport, headquartered in Montreal, Canada.

2. United Kingdom Anti-Doping Limited ("UKAD" or the "First Respondent") is the national anti-doping organisation for the United Kingdom and at the relevant time the England and Wales Cricket Board ("ECB") – then the national governing body for the sport of cricket in England and Wales – was delegated authority for results management in respect of athletes subject to the ECB's Anti-Doping Rules ("ECB ADR").

3. Mr. Laurie Evans (the "Athlete" or the "Second Respondent") is a professional cricket player. He has played professional cricket for approximately 18 years and is employed by Surrey County Cricket Club. The Athlete is subject to the ECB ADR by virtue of his participation in the sport of cricket.

4. WADA, UKAD and the Athlete are collectively referred to as the "Parties".

II. FACTUAL BACKGROUND

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

A. Background Facts

6. On 23 August 2022, the Athlete was subject to an out-of-competition doping control test. The Athlete provided a urine sample with reference 1178343 (the "Sample").

7. The Sample was sent for analysis to the WADA-accredited laboratory at King's College London ("KCL" or the "Laboratory"). The Sample was received by KCL on 24 August 2022, the day after collection.

8. The Sample was analysed by KCL between 24 August 2022 and 14 October 2022, when the results were reported in ADAMS (the Anti-Doping Administration and Management System).

9. On 14 October 2022, KCL reported to UKAD an adverse analytical finding ("AAF") for the presence of ostarine in the A Sample. The indicative estimate for the concentration of ostarine found in the A Sample was approximately 0.9 ng/ml.

10. Ostarine is a Prohibited Substance listed under S.1.2 of the WADA Prohibited List as an Other Anabolic Agent. It is a non-specified substance prohibited at all times.

11. On 1 November 2022, the ECB notified the Athlete of the AAF, that he might have committed anti-doping rule violations ("ADRVs") under Articles 2.1 and 2.2 of the ECB ADR for the Presence and/or Use of a Prohibited Substance, and imposed a provisional suspension.

12. On 7 December 2022, the Athlete asked UKAD whether KCL had analysed the Sample for ostarine metabolites.

13. Following a hearing on 21 March 2023, the Athlete's provisional suspension was lifted pursuant to Article 7.7.1 of the ECB ADR, on the basis that the alleged ADRVs were likely to have involved a Contaminated Product.

14. On 29 March 2023, the Athlete was charged with the commission of ADRVs for the Presence and/or Use of a Prohibited Substance pursuant to Articles 2.1 and 2.2 of the ECB ADR. The Athlete accepted that he committed the ADRVs charged but denied that the ADRVs were intentional, advancing a defence of contamination.

15. On 12 January 2023, following confirmation that KCL had not performed, and was not capable of performing, an analysis of ostarine metabolites, the Athlete requested an urgent transfer of the Sample to another laboratory so that it could be so analysed (the "Further Analysis").

16. In the months that followed, UKAD, the ECB and WADA opposed the Athlete's request for the Further Analysis.

17. On 11 September 2023, the Athlete applied to the Chair of the National Anti-Doping Panel ("NADP") for an order that the ECB arrange for the Further Analysis to be conducted.

18. On 3 October 2023, following the hearing of the application, the Chair of the NADP directed the ECB to write to the WADA-accredited laboratories in Cologne and Rome to request that they perform the Further Analysis. Both laboratories offered to do so.

19. The Further Analysis was ultimately conducted by the Cologne Laboratory in January 2024. The Further Analysis confirmed the presence of ostarine's M1a and M1b metabolites in the Sample.

20. In his cover letter dated 12 January 2024, Professor Mario Thevis, Director of the Cologne Laboratory, stated that the M1a and M1b metabolites were detected with Analyte Peak Heights consistent with those observed in the Walpurgis study in respect of a sample collected approximately 11 hours after the consumption of a 10 µg dose of ostarine.

B. Proceedings before the National Anti-Doping Panel and the National Anti-Doping Appeal Panel

21. On 7 May 2024, a hearing took place before the NADP.

22. On 28 May 2024, the NADP rendered its decision (the "First Instance Decision"). The NADP found that:

"*Mr Evans has demonstrated that the source of his AAF was a Contaminated Product or, alternatively, environmental contamination. His ADRV, therefore, was unintentional and, further, we find that he acted with No Fault or Negligence.*

It follows that there will be no sanction, notwithstanding that this is a strict liability offence and we will invite the parties to make submissions as to consequential directions should they be necessary."

23. UKAD appealed the First Instance Decision before the National Anti-Doping Appeal Panel (the "Appeal Tribunal").

24. The Athlete filed a cross-appeal against the First Instance Decision in respect of alleged delays regarding the notification of test results and the carrying out of the Further Analysis. The Athlete sought that the charges be dismissed without consideration of their merits because of the material prejudice caused to his defence by the actions and inactions of UKAD, ECB and WADA.

25. The Appeal Tribunal heard the matter on 18 February 2025.

26. On 5 March 2025, the Appeal Tribunal rendered its decision (the "Appealed Decision"). The Appeal Tribunal varied the First Instance Decision as follows:

"*a. We confirm the ADRV finding but find that Mr Evans bore No Significant Fault or Negligence.*

b. Pursuant to ECB ADR Article 10.6.1.2 we impose a reprimand by way of sanction and no other sanction

c. We do so merely because we consider that is the minimum sanction which can be imposed under the rules

d. We dismiss the cross appeal."

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

27. On 9 April 2025, WADA filed a Statement of Appeal at the Court of Arbitration for Sport in Lausanne, Switzerland (the "CAS"), against the Appealed Decision (the "Appeal"), pursuant to Article R47 of the Code of Sports-related Arbitration (the "Code") and Articles 13.4 and 13.6 of the UK Anti-Doping Rules. The Appellant nominated Prof. Ulrich Haas as an arbitrator.

28. On 17 April 2025, the Appellant requested an extension of the deadline to file its Appeal Brief until 26 June 2025. The Second Respondent requested an extension of the deadline for the Respondents to jointly nominate an arbitrator to the Panel.

29. On 22 April 2025, the CAS Court Office advised that the deadline for the Respondents to jointly nominate an arbitrator was extended until 6 May 2025. The Respondents were invited to comment on the Appellant's request and advised the Parties that the Appellant's deadline was meanwhile stayed.

30. On 24 April 2025, the Second Respondent objected to the Appellant's extension request.

31. On 29 April 2025, the Appellant's request for an extension of time was partially granted, until 6 June 2025.

32. On 6 May 2025, the First Respondent requested further extension for the Respondents to jointly nominate an arbitrator to the Panel. The Appellant was invited to comment on the request, and the Parties were advised that the Respondents' deadline was meanwhile stayed.

33. On 9 May 2025, the CAS Court Office advised that the Respondents' time limit to jointly nominate an arbitrator was extended until 10 days after the notification of the Appellant's Appeal Brief.

34. On 22 May 2025, the CAS Court Office noted the withdrawal of the Appeal against the Cricket Regulator and the ECB, and that the Respondents will not pay their shares of the advance of costs.

35. On 6 June 2025, the Appellant requested a further extension of the deadline by two weeks, until 20 June 2025.

36. On 11 June 2025, the CAS Court Office advised the Parties that the requested extension had been granted.

37. On 20 June 2025, the Appellant filed its Appeal Brief.

38. On 3 July 2025, the Respondents requested an extension of time to nominate an arbitrator. On the same day, the CAS Court Office advised that the Respondents' time limit to nominate an arbitrator was extended to 8 July 2025.

39. On 8 July 2025, the Respondents nominated Mr. Jan Paulsson as an arbitrator.

40. On 11 July 2025, the Respondents requested an extension of time to 8 October 2025 to file their Answers.

41. On 15 July 2025, the Appellant objected to the extension requests.

42. On 17 July 2025, the CAS Deputy Division President granted an extension to 19 September 2025 for the Respondents to file their Answers.

43. On 17 September 2025, the Second Respondent requested an extension to file his Answer until 3 October 2025.

44. On 19 September 2025, the First Respondent filed its Answer.

45. On 19 September 2025, the Second Respondent's extension to file his Answer was granted until 3 October 2025.

46. On 3 October 2025, the Second Respondent filed his Answer and his Cross-Appeal.

47. On 17 October 2025, the CAS Court Office noted that the Appellant and the First Respondent would not pay their shares of the costs related to the Cross-Appeal.

48. On 24 November 2025, the Second Respondent's Cross-Appeal was withdrawn.

49. On 2 December 2025, the CAS Court Office informed the Parties that the Panel appointed to decide the Appeal was constituted as follows:

President:	Mr. Vladimir Novak, Attorney-at-law in Brussels, Belgium
Arbitrators:	Mr. Jan Paulsson, President of the Bahrain International Commercial Court, Bahrain
	Prof. Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-law in Hamburg, Germany

50. On 3 February 2026 a CMC took place at which the Panel and the Parties discussed Hearing dates and timetable.

51. On 12 February 2026, the CAS Court Office circulated the Order of Procedure.

52. On 24 February 2026, the CAS Court Office acknowledged receipt of the Order of Procedure duly signed by all three Parties.

53. The Appeal was heard on 12 and 13 March 2026 by videoconference. The Panel was assisted by Ms Shanaize Yahiaoui, CAS Counsel, and Joe Gaffney (in an administrative capacity with the consent of the Parties), and joined by the following participants:

- For the Appellant:
    - Ms. Louise Reilly SC (Counsel)
    - Mr. Nicolas Zbinden (Counsel)
    - Mr. Robert Kerslake (Counsel)
    - Mr. Ross Wenzel (WADA)
    - Mr. Alexandre Csuzdi-Valee (WADA)
    - Mr. Cyril Troussard (WADA)
    - Professor Christiane Ayotte (Expert)
    - Professor Kim Wolff (Witness)
- For the First Respondent:
    - Mr. Alasdair Muller (Counsel)
    - Ms. Nisha Dutt (UKAD)
    - Ms. Amy Marron (UKAD)
    - Mr. Carlo Panozo (UKAD)
    - Ms. Stacey Cross (UKAD)
    - Professor David Cowan (Expert)
- For the Second Respondent:
    - Mr. Tom Seamer (Counsel)
    - Mr. Mike Morgan (Counsel)
    - Mr. Sam Comb (Counsel)
    - Mr. Laurie Evans (Athlete)
    - Mrs. Verity Evans (Witness)
    - Dr. David Roberts (Witness)

- Professor Pascal Kintz (Expert)
- Dr. Diederik Smit (Expert)

54. At the outset of the Hearing, the Parties confirmed they had no procedural issues or objections.

55. During the Hearing, the Parties had ample opportunity to present their case, submit their arguments and answer the Panel's questions.

56. At the end of the Hearing, the Parties stated that they had no objections as to the procedure adopted by the Panel, its constitution, or its jurisdiction. The Parties confirmed that their right to be heard had been respected.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant's submissions

57. The Appellant's Appeal Brief contains the following requests for relief:

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

2. The decision dated 5 March 2025 rendered by the National Anti-Doping Appeal Panel in the matter of UK Anti-Doping Limited v. Laurie Evans is set aside.

3. Laurie Evans is found to have committed an anti-doping rules violation for the Presence and/or Use of a Prohibited Substance.

4. Laurie Evans is sanctioned with a period of ineligibility of four (4) years, starting on the date on which the CAS award enters into force, with credit for any period of provisional suspension effectively served.

5. All competitive results obtained by Laurie Evans from and including 23 August 2022(i.e., the date of the anti-doping rule violation), up to the date of the first instance decision, are disqualified, with all resulting consequences (including forfeiture of medals, points and prizes).

6. The arbitration costs shall be borne by UKAD or, in the alternative, by the Respondents jointly and severally.

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

58. The Appellant characterises the case as straightforward: the Second Respondent tested positive for a non-specified substance, and does not contest that he committed ADRVs for "*Use*" and "*Presence*" of that non-specified substance. Instead, his defence is that

the AAF was caused by contamination, and that he bore No Significant Fault or Negligence in the commission of the ADRVs.

59. However, the Appellant submits that the defence must fail as the Second Respondent has not established the source of the prohibited substance in order to sustain his plea of No Significant Fault or Negligence (as is required by Article 10.6 of the UK ADR, and the Comment to Article 10.2.1.1 of the World Anti-Doping Code ("WADC")).

60. The Appellant submits that the four witness statements submitted by the Second Respondent do not assist his case. The Second Respondent "*may have used*" the supplements listed therein; he cannot say that he did use them. Furthermore, each batch of the Candidate Supplements (being "*a number of hydration or protein supplements that [the Second Respondent] was using prior to Sample provision*") was tested for banned substances (in some instances by Informed Sport as part of its certification process in the first instance), and analysis carried out on the Second Respondent's behalf returned negative results. No other players who had access to the same supplements as the Second Respondent tested positive. This makes it inherently unlikely that any supplement contained a banned substance. The Second Respondent may only discharge his standard of proof by providing persuasive, objective evidence demonstrating that the Second Respondent's explanation for the source is more likely than not to be true.

61. The Appellant refers to a number of cases in support of its position that actual evidence must be adduced for an athlete to meet the standard of proof to establish source:

- CAS 2014/A/3820, where it was held that "*in order to establish the origin of a Prohibited Substance by the required balance of probability, an athlete must provide actual evidence as opposed to mere speculation*."

- CAS 2010/A/2230, where the athlete's burden was expressed in the following terms: "*To permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules. Spiking and contamination – two prevalent explanations volunteered by athletes for such presence – do and can occur; but it is too easy to assert either; more must sensibly be required by way of proof, given the nature of the athlete's basic personal duty to ensure that no prohibited substances enter his body*."

- CAS 2006/A/1067, where the Panel considered a plea of No Fault or Negligence in the context of an alleged spiking. The Panel held that "*the Respondent has a stringent requirement to offer persuasive evidence of how such contamination occurred. Unfortunately, apart from his own words, the Respondent did not supply any actual evidence of the specific circumstances in which the unintentional ingestion of cocaine occurred*".

- CAS 2010/A/2268, where the Panel dismissed the plea that the athlete inadvertently ate the substance owing to its commercialised form resembling

candies, finding that what is required is objective evidence of the route of administration beyond speculation or allegation of a possible occurrence of a fact.

- CAS 2017/A/5105, where the Panel held that 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 athlete has taken has contained 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 2024/A/10647, where the Panel held that: "*the use of the word "must" in the definition of No Fault or Negligence in the ADR positively requires the Athlete to prove "how the Prohibited Substance entered the Athlete's system", namely to prove the source of the AAF. Therefore, to be entitled to rely on Article 10.5 of the ADR to state that he/she bore No Fault or Negligence, an athlete must meet the threshold requirement to prove the source of the AAF. Such requirement is specifically and expressly mandated in the rules, unlike the requirement to prove source as evidence of non-intentional use which is a requirement established by CAS case law but is not specifically stated in the ADR*."

62. The Appellant submitted that there is no specific evidence which identifies a single product consumed by the Second Respondent which was contaminated with ostarine, and the Second Respondent has accordingly failed to "*provide strong, cogent and objective evidence as to the specific source of the ostarine*".

63. While the Appellant accepts with reference to CAS 2016/A/4534 that establishing lack of intent without proving source requires traversing the "*narrowest of corridors*", it is only possible in the "*rarest of cases*", and the Second Respondent has failed to do so here. It is on this basis that the Appellant submits that the Appealed Decision was fundamentally wrong in finding that the Second Respondent bore No Significant Fault or Negligence.

64. As to the issue of delay, the Appellant's submissions are twofold, addressing notification of the AAF, and the further analysis of the Sample.

65. The Sample was collected on 23 August 2022 and received by KCL on 24 August 2022. Article 5.3.8.4 of the International Standard for Laboratories ("ISL") provides that reporting of A Sample results should occur in ADAMS within twenty days of receipt of the Sample.

66. The use of the word "*should*" rather than "*shall*" or "*must*" (such mandatory language being used elsewhere) means that the obligation is not mandatory. KCL reported the

results within 51 days of receipt, which the Appellant submits was entirely reasonable given the laboratory's commitments at the time, including analysis of samples from three major events and the batching of samples in groups of 30 for cost-effectiveness.

67. The delay in Further Analysis was also not unreasonable. Even if the Panel finds against the Appellant on delay, the Appellant submits there is no prejudice, and that the appropriate remedy for any prejudice is backdating of any period of ineligibility rather than dismissal of the charges.

68. The Appellant submits that the standard four-year period of ineligibility applicable under Article 10.2.1 must be imposed. The Code provides for backdating. The notification delay is not extraordinary. The Appellant's position was that the period of ineligibility should commence on the date of the CAS award, with credit given for the (limited) period of provisional suspension served. However, at the Hearing, the Appellant expressed that it would be content to accept that a suspension may run from the date of the First Instance Decision.

B. The First Respondent's submissions

69. The First Respondent endorses the Appellant's appeal (save as to the issue of costs). The First Respondent limited its written brief to supplementary matters not addressed by the Appellant. The First Respondent's Answer contains the following requests for relief:

"*1. In accordance with WADA's Appeal Brief, the decision of the NADP Appeal Panel, dated 5 March 2025, in the matter of UK Anti-Doping Limited v Laurie Evans is set aside.*

2. In accordance with WADA's Appeal Brief, Laurie Evans is found to have committed the ADRVs of presence (Article 2.1 of the ECB ADR) and Use (Article 2.2 of the ECB ADR) of a Prohibited Substance, namely ostarine.

3. In accordance with WADA's Appeal Brief, Laurie Evans is sanctioned with a period of ineligibility of four (4) years, starting on the date on which the CAS award enters into force, with credit for the provisional suspension effectively served (being 140 days from 1 November 2022 to 29 March 2023).

4. In accordance with WADA's Appeal Brief, Laurie Evans' competitive results from 23 August 2022 to 28 May 2024 inclusive are disqualified, with all resulting consequences.

5. The Parties each bear their own legal and other administrative costs."

70. In support of the request for relief, the First Respondent submits as follows. The First Respondent endorses the Appellant's submissions that the NADP Appeal Panel made a fundamental error in finding that the Second Respondent bore No Significant Fault or Negligence for his ADRVs, and that there was no basis for the NADP Appeal Panel to

impose a reprimand instead of a four-year period of ineligibility. The First Respondent notes that the Second Respondent was notified of his AAF on 1 November 2022 by the ECB, not the Cricket Regulator (which was established in December 2023). The First Respondent requests that both ADRV findings (presence and Use under ECB ADR Articles 2.1 and 2.2 respectively) be confirmed. The First Respondent also notes that the applicable rules are the ECB ADR rather than the UK ADR, and requests that any decision of the Panel cite the ECB ADR accordingly.

71. The First Respondent submits that the period between the Second Respondent providing his Sample on 23 August 2022 and notification of the AAF on 1 November 2022 was neither undue nor otherwise unusual nor unreasonable; it was wholly justifiable and in line with alterations to the standard 20-day reporting guideline agreed between the Laboratory and the First Respondent in full accordance with ISL Article 5.3.8.4. The First Respondent further submits that the Second Respondent has not shown that the delay prejudiced his ability to establish source. Once notified of his AAF on 1 November 2022, the Second Respondent recalled, in extensive detail, over 100 various products he used or may have used prior to sample collection. Of the 13 Candidate Supplements identified by the Second Respondent, samples from the relevant batch of each were tested for the presence of ostarine by Informed Sport at least once as part of its certification process, with negative results; three Candidate Supplements were subject to routine blind testing by Informed Sport, also with negative results; and the Cricket Regulator arranged for the manufacturers of eight Candidate Supplements to retest the relevant batches, also with negative results. The First Respondent submits that there is no evidence to establish that, if the Second Respondent had been notified of his AAF before 29 September 2022, his clubs would have been able to provide him with samples of the 13 Candidate Supplements for further testing.

72. The First Respondent submits that there are clear *prima facie* reasons to conclude that it is feasible that the ostarine in the Second Respondent's Sample may be due to intentional use. In particular: ostarine's ability to increase strength and improve physical function would clearly be beneficial for a cricketer, specifically a batsman who specialises in limited-overs formats of the game and whose playing style is aggressive and hard-hitting; ostarine would be especially beneficial to athletes in the later years of their career (the Second Respondent was approaching his 35th birthday at the time of his test), looking to prolong their physical condition and ability to compete at a professional standard for longer; and ostarine may also aid recovery from injury, particularly among athletes in the later years of their career where such recovery may be slower.

73. The First Respondent submits that it should not have to bear the arbitration costs and/or either of the Appellant's or the Second Respondent's costs in this matter. The First Respondent has conducted itself properly at all stages and cooperated as far as possible with the Appellant and the Second Respondent. The First Respondent brought the First Instance Decision to the NADP Appeal Panel at material expense, and the imposition of

a costs award against it would be manifestly unfair. The First Respondent is a public body with access to limited, finite funding, and any substantive award against the First Respondent will adversely affect its anti-doping efforts in the UK.

C. The Second Respondent's submissions

74. The Second Respondent's Answer and opening submissions contain the following requests for relief:

"*(a) dismiss the charges;*

(b) alternatively, find that Mr Evans bears No Fault or Negligence for the ADRV;

(c) in the further alternative, dismiss WADA's appeal and uphold the Appealed Decision;

(d) in any event, order that WADA and/or UKAD:

(i) bear the entirety of the arbitration costs; and

(ii) make a contribution towards Mr Evans' legal fees and other expenses."

75. The Second Respondent's primary position is that the charges must be dismissed without consideration of their merits because of the material prejudice caused to his defence by the actions and inactions of the ECB, the First Respondent, the Appellant and related third parties. In response to the suggestion by the Appellant and the First Respondent that the only solution where delay prejudices an athlete's defence is to backdate the period of ineligibility, the Second Respondent submits that this is not correct. Various tribunals, including the CAS, have taken different approaches.

76. The Second Respondent submits that the Appellant itself, together with the IOC, previously took a different approach following the 2008 Beijing Olympics, when samples were retested for clenbuterol, and elected not to charge the athletes given the passage of time and evidentiary difficulties. In addition, Charles Hollander KC (presiding at the Appeal Tribunal) found that backdating cannot be the only solution. If a no-fault defence has been severely prejudiced, it is cold comfort for a panel to say that it is not a no-fault case and to impose a four-year ban, backdated.

77. The Second Respondent submits that there were significant delays in this case, none caused by him: in particular, he did not learn of the positive result until 70 days after the Sample was taken.

- KCL did not report the Sample results in ADAMS until 14 October 2022, 51 days after it received the Sample and 30 days after it was required to report the results under ISL Article 5.3.8.4.

- The ECB did not notify the Second Respondent of those results for another 18 days, in breach of the requirement to "*promptly notify*" under Article 5.1.2.1 of the International Standard for Results Management ("ISRM").

- The Second Respondent further submits that the reasons for the delay are irrelevant so long as the Second Respondent was not responsible for the delay, which is not disputed. The Second Respondent relies on the CAS decision in CAS OG 22/008 & 22/009 & 22/010 in support of this proposition.

78. The Second Respondent submits that the delays materially prejudiced his defence. As a result of the 70-day gap between Sample collection and notification, many of the supplements that the Second Respondent used or may have used prior to Sample collection had been used up or discarded by the time of notification.

79. Surrey CCC confirmed that by the time they were contacted about the AAF on 2 November 2022, they had just three of the 22 supplements provided to their players in the 2022 season left, but that if they had been notified a couple of weeks earlier they would have had leftovers of more or all of the 22 supplements.

80. David Roberts, Head of Sports Science and Medicine at Lancashire CCC and Manchester Originals, confirmed that by the time the Second Respondent's agent contacted Manchester Originals about the AAF on 2 November 2022, none of the supplements remained available for testing, as they had all either been used up or discarded by or in October 2022.

81. The Second Respondent further submits that the delay in the Further Analysis (more than 13 months) also materially prejudiced his defence, as the results of the Further Analysis would have narrowed the contamination time window and focused his investigations.

82. Alternatively, the Second Respondent submits that if the Panel does not dismiss the charges, it must be concluded that the AAF was caused by contamination, most likely by the consumption of a Contaminated Product.

83. The Second Respondent submits that he is required to establish the source of the AAF on the balance of probabilities, but that this does not amount to a requirement to identify a single, precise source.

84. The Second Respondent's primary case is that the AAF was most likely caused by a Contaminated Product, specifically one or more of the 13 hydration or protein supplements that he was using prior to Sample provision (the "Candidate Supplements").

85. In the alternative, if the Panel does not accept that the AAF was caused by a Contaminated Product, the Second Respondent submits that it must have been caused

by environmental contamination in the Ramsbottom Cricket Club changing room on 23 August 2022.

86. The Second Respondent submits that the source of an AAF may be proven on the balance of probabilities where there is only circumstantial evidence as to source, and that an athlete need not identify a single, precise source. The Second Respondent relies on a number of cases in support of this proposition, including CAS 2018/A/5583, CAS 2013/A/3370, X v. UEFA, CAS 2019/A/6482, World Athletics v. X, and X v. The Football Association.

87. The Second Respondent further submits that the Panel must evaluate the entirety of the evidence and that the Panel's determination as to whether an athlete has proved source is a matter of evaluation of the totality of the evidence, including direct and indirect evidence alike.

88. The Second Respondent submits that the AAF was not caused by intentional use of ostarine.

89. The NADP concluded with no hesitation that the Second Respondent did not take ostarine deliberately, and the Appeal Tribunal upheld that conclusion, stating that there was ample evidence to justify it.

90. The Second Respondent relies on the following evidence in support of his case on intentionality: (a) the analyses of hair samples collected from the Second Respondent which prove that he was not doping with ostarine; (b) the fact that any intentional use scenario has to be a "dopey doper" scenario; (c) the Second Respondent's steroid profile; (d) the Second Respondent's clean anti-doping record; and (e) the Second Respondent's cautious approach towards the use of supplements and medications.

91. The Second Respondent is an extremely diligent athlete who takes an unusually cautious approach to anti-doping, as demonstrated by both character evidence and contemporaneous documentation.

92. The Second Respondent submits that any ADRV was not intentional, such that the maximum period of ineligibility that may be imposed is two years.

93. The Second Respondent further submits that he bears No Fault or Negligence, such that no period of ineligibility should be imposed.

94. In the alternative, the Second Respondent submits that he bears No Significant Fault or Negligence, such that only a reprimand should be imposed.

95. Any period of ineligibility that is imposed should be deemed to have commenced on 23 August 2022, the date of Sample collection, given the substantial delays in the

proceedings not attributable to the Second Respondent. The Second Respondent further submits that fairness requires that his results should not be disqualified.

V. JURISDICTION

96. The Appellant submits that the CAS has jurisdiction in relation to the Appeal by virtue of the UK ADR.

97. Article 13.4 of the UK ADR provides as follows:

"The following decisions -- a decision that an Anti-Doping Rule Violation was (or was not) committed, a decision imposing (or not imposing) Consequences for an Anti-Doping Rule Violation (other than as provided for in Article 13.3); […] -- may be appealed by any of the following parties exclusively as provided in this Article 13:

[…]

(g) WADA."

98. Article 13.6.1 of the UK ADR provides as follows:

"Decisions of an NADP appeal tribunal in cases brought under Article 13.4.2(b) may be challenged by appeal to CAS only by WADA, the relevant International Federation, and (where the decision may have an effect in relation to the Olympic Games or Paralympic Games) by the International Olympic Committee or International Paralympic Committee (as applicable). Subject thereto, decisions of the NADP appeal tribunal shall be the full, final and complete disposition of the case and will be binding on all of the Persons identified in Article 13.4.1."

99. However, the First Respondent notes that it is the ECB ADR (not the UK ADR) which ought to be applicable to the Appeal as the Second Respondent was charged with ADRVs under the ECB ADR.

100. Article 13.1 of the ECB ADR provides:

"*Decisions made under the Rules may be challenged solely by appeal as set out in this Article 13 (or as otherwise provided in the Rules, the World Anti-Doping Code or International Standards). Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise*."

101. Article 13.2.1 of the ECB ADR provides:

"*The following decisions may be appealed by any of the parties listed in this Article 13.2.1, exclusively as provided in this Article 13 -- a decision that an anti-doping rule*

violation was (or was not) committed, a decision imposing Consequences (or not imposing Consequences) for an anti-doping rule violation; […]:

13.2.1.7 WADA."

102. Article 13.3.5 of the ECB ADR provides:

"*Decisions of the Appeal Panel may only be challenged by WADA or the ICC, by appeal to CAS in accordance with the provisions of Article 13.7. Subject thereto, such decisions shall be the full, final and complete disposition of the appeal and will be binding on all of the parties identified in Article 13.2.1*."

103. Article R47 of the 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*."

104. The Respondents did not contest the jurisdiction of the CAS, and confirmed CAS jurisdiction by signing the Order of Procedure and participating fully in this proceeding.

105. The Panel concludes that CAS has jurisdiction to decide the present Appeal.

VI. APPLICABLE LAW

106. Article R58 of the 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*."

107. As above, the applicable rules are contained in the ECB ADR. In accordance with Article 13.7.4 of the ECB ADR, the ECB ADR shall be construed in accordance with English law. However, in doing so the Panel is mindful of Article 17.2 of the ECB ADR, which states as follows:

"The … [ECB ADR] *shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes of any Signatory or government."*

VII. ADMISSIBILITY

108. Article R49 of the Code provides:

"*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".*

109. Article 13.6.1 of the ECB ADR provides:

"*The time to file an appeal to the Appeal Panel or to CAS (as applicable) shall be twenty-one (21) days from the date of receipt of the written decision by the appealing party. Where the appellant is a party other than the National Cricket Federation, to be a valid filing under this Article, a copy of the appeal must also be filed on the same day with the National Cricket Federation.*"

110. Article 13.6.2 of the ECB ADR provides:

"*Article 13.6.1 notwithstanding, the following shall apply in connection with appeals filed by a party that was not a party to the proceedings that led to the decision subject to appeal:*

13.6.2.1 Within fifteen (15) days from receipt of the written, reasoned decision, such party/ies shall have the right to request from the body that issued the decision a copy of the file on which such body relied.

13.6.2.2 If such a request is made within the fifteen-day period, then the party making such request shall have twenty-one (21) days from receipt of the file to file an appeal."

111. Article 13.6.3 of the ECB ADR provides:

"*Articles 13.6.1 and 13.6.2 notwithstanding, the filing deadline for an appeal filed by WADA shall be the later of:*

13.6.3.1 Twenty-one (21) days after the last day on which any other party in the case could have appealed; and

13.6.3.2 Twenty-one (21) days after WADA's receipt of a copy of the file on which the body that issued the decision relied."

112. The Appealed Decision was notified to the Appellant on 5 March 2025, and the Appellant received the case file on 19 March 2025. The deadline for an appeal by the Appellant was therefore 9 April 2025.

113. The Statement of Appeal was filed on 9 April 2025, and thus within the deadline set out in Article 13.6.3.2 of the ECB ADR.

114. The Appeal Brief was submitted within the extended deadline of 20 June 2025.

115. The Respondents did not contest the admissibility of the Appeal.

116. The Panel concludes that the Appeal is admissible.

VIII. MERITS

117. ADRVs are alleged against the Second Respondent under Article 2.1 ("*The presence of a Prohibited Substance or its Metabolites or Markers in a Cricketer's Sample*") and Article 2.2 ("*Use or Attempted Use by a Cricketer of a Prohibited Substance or a Prohibited Method*") of the ECB ADR. These provide as follows:

> "*2.1 The presence of a Prohibited Substance or its Metabolites or Markers in a Cricketer's Sample.*
>
> *2.1.1 It is each Cricketer's personal duty to ensure that no Prohibited Substance enters his/her body. A Cricketer is responsible for any Prohibited Substance or its Metabolites or Markers found to be present in his/her Sample. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Cricketer's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1*."
>
> "2*.2 Use or Attempted Use by a Cricketer of a Prohibited Substance or a Prohibited Method, unless the Cricketer establishes that such Use or Attempted Use is consistent with a Therapeutic Use Exemption granted in accordance with Article 4.4.*
>
> *2.2.1 It is each Cricketer's personal duty to ensure that no Prohibited Substance enters his/her body and that he/she does not Use any Prohibited Substance or Prohibited Method. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Cricketer's part be demonstrated in order to establish an anti-doping rule violation of Use of a Prohibited Substance or Prohibited Method under Article 2.2*."

118. Burden and standard of proof in respect of the ADRVs are established by Article 3.1 of the ECB ADR as follows:

> "*3.1 Burdens and Standards of Proof*
>
> *3.1.1 The National Cricket Federation or NADO (as applicable) shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the National Cricket Federation or NADO (as applicable) has established the commission of the alleged anti-doping rule violation to the comfortable satisfaction of the Hearing Panel, bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.*

3.1.2 Where the Rules place the burden of proof upon the Cricketer 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."

119. Article 2.1.2 of the ECB ADR provides:

"*Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following […] (b) where the Cricketer's B Sample is analysed and the analysis of the Cricketer's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Cricketer's A Sample […]*"

120. Article 3.2 of the ECB ADR provides:

"*The Hearing Panel shall not be bound by judicial rules governing the admissibility of evidence. Instead, facts relating to an anti-doping rule violation may be established by any reliable means, including admissions*."

121. Article 10.2 of the ECB ADR provides:

"*10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method*

The period of Ineligibility imposed for a violation of Article 2.1 (presence of Prohibited Substance or its Metabolites or Markers in a Sample), Article 2.2 (Use or Attempted Use of Prohibited Substance or Prohibited Method) or Article 2.6 (Possession of Prohibited Substances and Methods) that is the Cricketer or other Person's first offence shall be as follows, unless the conditions for eliminating, reducing or suspending the period of Ineligibility (as provided in Articles 10.5, 10.6 and 10.7) are met.

10.2.1 The period of Ineligibility, subject to Article 10.2.4.1, shall be four years where:

(a) the anti-doping rule violation does not involve a Specified Substance or Specified Method, unless the Cricketer or other Person can establish that the anti-doping rule violation was not intentional;

(b) the anti-doping rule violation involves a Specified Substance or Specified Method and the National Cricket Federation establishes that the anti-doping rule violation was intentional;

10.2.2 If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of Ineligibility shall be two years.

10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Cricketers or other Persons who engage in conduct which he or she 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. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance that is prohibited In-Competition only shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Cricketer can establish that the Prohibited Substance was used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Cricketer can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance."

122. Article 10.5 of the ECB ADR provides:

"*10.5 Elimination of the Period of Ineligibility where there is No Fault or Negligence*

If a Cricketer or other Person establishes in an individual case that he/she bears No Fault or Negligence in respect of the anti-doping rule violation in question, then the otherwise applicable period of Ineligibility shall be eliminated."

123. Article 10.6 of the ECB ADR provides:

"10.6 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence

10.6.1 Reduction of the Period of Ineligibility for Specified Substances, Specified Methods or Contaminated Products, or in the case of Protected Persons or Recreational Players for violations of Articles 2.1, 2.2 or 2.6.

All reductions under Article 10.6.1 are mutually exclusive and not cumulative.

10.6.1.1 Specified Substances or Specified Methods

Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Cricketer or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility and, at a maximum, two years of Ineligibility, depending on the Cricketer or other Person's degree of Fault.

10.6.1.2 Contaminated Products

In cases where the Cricketer or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance came from a Contaminated Product (other than a Substance of Abuse), then the period of Ineligibility shall be, at a

minimum, a reprimand and no period of Ineligibility and, at a maximum, two years of Ineligibility, depending on the Cricketer or other Person's degree of Fault."

124. The Appeal raises the following principal issues:

- Prejudice from delay;
- No Fault or Negligence;
- Intent;
- No Significant Fault or Negligence; and
- Sanction.

A. Prejudice from delay

125. The Second Respondent was notified of the AAF 70 days after sample collection (23 August 2022 to 1 November 2022), against (i) the 20-day period for reporting A Sample analysis specified under ISL Article 5.3.8.4 (KCL reported the A Sample analysis 30 days after it was supposed to); and (ii) the requirement to "*promptly notify*" under ISRM Article 5.1.2.1.

126. The Second Respondent claims that this delay prejudiced his ability to preserve and test supplements, thereby prejudicing his ability to establish a contamination source.

127. The Second Respondent also submits that he suffered prejudice as a consequence of the delays in conducting the Further Analysis (the request for the Further Analysis having been made in December 2022, and the Further Analysis having been carried out in January 2024). The prejudice said to have been suffered follows the conclusions of Prof. Thevis "*that a scenario of an ingestion of microgram amounts of ostarine (e.g. 10 µg) in close proximity (e.g. 11 h prior) the Sample collection is a possible explanation for the AAF*". The Second Respondent submits that, had this information been made available to him when he first sought the Further Analysis, he would have better focused his investigations as to the source of the AAF thus having a greater chance of identifying a specific source of the AAF. As a consequence of the significant delays in the Further Analysis being conducted, it is submitted that the Second Respondent was prejudiced by being deprived of having that greater chance of identifying the specific source of the AAF.

128. The Second Respondent submits that the consequence of the prejudice caused by the significant delays in his case is that the charges against him must be dismissed. In the alternative, it is submitted that the Panel must mitigate the prejudice suffered by the Second Respondent by:

- accepting at face value the Second Respondent's case as to how ostarine came to be in the Sample;

- waiving, or at the very least lessening, the requirement to prove source as a precondition to a fault-based mitigation plea; and/or

- taking into account the prejudice the Second Respondent has suffered when setting a sanction (if any).

129. The Appellant and the First Respondent first submit that ISL timeframes are guidelines rather than strict deadlines, and that the Second Respondent has not established actual prejudice. Moreover, the delays are not unreasonable, nor did they cause any prejudice to the Second Respondent.

130. ISL Article 5.3.8.4 provides as follows:

"*Reporting of "A" Sample results* [by the laboratory] *should occur in ADAMS within twenty (20) days of receipt of the Sample*".

131. The Panel considers that this is a non-mandatory requirement, insofar as the word "*should*" is used, whereas elsewhere in ISL Article 5, the drafter used "*shall*" – which the Panel takes to mean a decision was taken as to the meaning of ISL Article 5.3.8.4.

132. However, the Panel notes that the delay in this case was not trivial. KCL reported the A Sample results 51 days after receipt of the Sample, which was 30 days after the 20-day period in ISL Article 5.3.8.4. The ECB then took a further 18 days to notify the Second Respondent after the results were reported in ADAMS, which the Panel considers was not prompt within the meaning of ISRM Article 5.1.2.1. The Panel also notes that the delay in conducting the Further Analysis (more than 13 months from the Second Respondent's initial request) was caused in significant part by the opposition of the First Respondent, the ECB and the Appellant to that request, and was only resolved following an application to the Chair of the NADP.

133. CAS jurisprudence recognizes that in rare cases significant delays can lead to reduction of sanctions. The Panel is also aware that in extreme cases a dismissal of charges was contemplated by panels. Any of the above requires, however, that a delay in the proceedings have put an athlete in a position of significant evidentiary hardship ("Beweisnotstand"). In order to assess whether this is the case, the non-mandatory deadlines in the ISL or ISRM are not particularly helpful, because they have not been drafted to take account of the evidentiary situation of the parties involved. These deadlines are not intended to advise or enable an athlete to collect, record or register evidence. Thus, whether there is a case of Beweisnotstand is to be assessed based on general procedural principles and independently of the above provisions providing for deadlines for analysis of a sample or notification of an AAF.

134. The Panel notes that – in Swiss procedural law – on which the Panel falls back to fill a procedural lacuna within the meaning of Article 182(3) of the Swiss Private Internal Law Act, the allocation of the burden of proof is based on considerations of equity or expediency, as well as on the principle of the protection of legitimate expectations, the typical proximity to the evidence, and the clarity of the legal situation. The burden of proof – based on these criteria – is also meant to apply in cases where there is hardship. More particularly, under Swiss law, there is no general rule that, in cases of evidentiary hardship, the burden of proof must be reversed in an individual case, nor is there a rule that the standard of proof should be lowered in such circumstances. Nor does evidentiary hardship exempt a party from liability.

135. An exception is discussed for situations in which the evidentiary hardship is significant and results from the opposing party's obstruction of evidence, namely where that party, in breach of its duties, fails to create evidence before or during the proceedings, or unlawfully and culpably destroys, manipulates, or otherwise withholds it from the opposing party.

136. The Panel considers that the evidentiary hardship for the Second Respondent in this case was not caused by the delays in the proceedings, but by the Second Respondent not recording and collecting necessary evidence in his sphere of control.

137. In any event to accept significant evidentiary hardship, the threshold is set high:

- In CAS 2024/A/10647, notification of an ADRV some 79 days after sample collection was said by the athlete to have caused prejudice and – as the Second Respondent submits in this case – impacted the athlete's ability to identify products which may have been contaminated, as the athlete had not retained the original batch of many of the medicines which she took. The Panel had no regard to this delay in finding that the athlete had not discharged the burden to establish the source of a prohibited substance in her sample. The period of ineligibility was, however, backdated, given the substantial delays which occurred in the athlete's proceedings (most of which were following the notification of the ADRV) which were not attributable to the athlete.

- In FINA v Palmer, the FINA Doping Panel found the athlete was prejudiced by delay of twenty months between sample collection and notification of an AAF. The FINA Doping Panel accepted the athlete's submission that the failure to notify the athlete of the AAF for such an extended period undermined the athlete's ability to meet the threshold burden of establishing how the specified substance entered her body. The requirement to prove how the substance entered the athlete's body was "*excused in these extraordinary circumstances where the anti-doping organization with results management responsibility knew that there was a positive drug test and still waited over 20 months to notify the athlete of the positive test*." A reprimand and no period of ineligibility was imposed.

- In CAS 2009/A/1782, there was a delay of over six months between sample collection and questions by the anti-doping organisation, including as to when the athlete had urinated prior to providing his sample, and when he had used his inhaler prior to the sample. The Panel found (at paragraph 55) that such a long period was "*unacceptable*" and that "*the Player was not in the position to answer to such questions precisely, because of ITF's fault and was therefore deprived of the right to fair evidence proceedings, which emerges from the right to be heard, the right to a fair trial and the principle of equal treatment, which are fundamental and which were disregarded in the present case*." A reprimand and no period of ineligibility was imposed.

- In CAS 2012/A/2922, the Panel found "*significant flaws*" in the case against the athlete meant that he was "*disabled from preparing an effective defence by reason of denial of sight of the relevant documents*". There were also issues which led to the relevant laboratory being deprived of its WADA accreditation. Amongst those issues were that the athlete faced a delay of over four and a half months between sample collection and notification, and over eight months between sample collection and the first opportunity to make his defence. The athlete received the A Sample ADP only after proceedings were commenced at the CAS. The presumption that WADA accredited laboratories have conducted analyses and procedures in accordance with International Standards was rebutted and the ADRV was not established to the comfortable satisfaction of the Panel.

138. The Panel finds that the delay in this case, whilst regrettable and in excess of the ISL guideline, does not warrant dismissal of the charges or reduction of the sanction, because the delay did not cause prejudice. This reflects the following considerations:

- The delay in this case is several orders of magnitude less serious than those in cases where unjustified delays caused prejudice to an athlete's defence and led to a dismissal of charges or reduction of sanction. The closest comparator is CAS 2024/A/10647, where the delay (79 days between sample collection and athlete notification) appears to have been given no weight by the Panel, which concluded that the athlete had not discharged the burden on her to establish the source of the prohibited source in her sample. This was notwithstanding the athlete's submission in that case that the delay prevented her from searching for the source of the AAF.

- While the Second Respondent's evidence revealed he was generally diligent as to his anti-doping obligations, there was no reason to believe that the delay caused the Second Respondent any prejudice.

    - The Second Respondent did not maintain an accurate record of what supplements he actually consumed prior to sample collection.

    - While evidence from Dr Roberts, Mr Alec Stewart and the Second Respondent was that supplements used by Manchester Originals and

Surrey CCC were used up or discarded by October 2022, no records were kept that would have indicated: (a) the specific tubs or containers used by the Second Respondent; or (b) when those specific tubs or containers were used or finished. The Panel notes that Dr Roberts confirmed in cross-examination that he could not be more definitive as to when supplements would have been disposed of, and that if stock had been available in late October it would not necessarily have been the same tub or container that the Second Respondent had used. The Panel therefore finds that even if the Second Respondent had been notified earlier, it is not established that the specific batches consumed by the Second Respondent would have been available for testing.

- In relation to the Second Respondent's submission that, absent the delay in the Further Analysis, he would have had a better chance of remembering crucial detail about the critical period and of focusing his investigations, the Panel finds that the delay cannot credibly be said to have caused memories to fade in a meaningful way. The Panel notes that the Second Respondent was able to recall, in considerable detail, his supplement use and routine in the period prior to sample collection, as evidenced by his four witness statements. The Panel accepts that the Further Analysis delay was more significant in terms of narrowing the investigation window, but notes that the results of the Further Analysis (while consistent with a contamination scenario) did not identify any specific source and were of limited probative value in establishing source given the equivocal nature of Prof Thevis's statements.

139. The Panel therefore finds that the delay, whilst regrettable and in excess of the ISL guideline, did not cause the Second Respondent actual prejudice sufficient to warrant dismissal of the charges or a reduction of the sanction on that basis alone. The Second Respondent's inability to identify the specific contaminated product is not attributable to the delay in notification, but rather to the Second Respondent's own failure to maintain contemporaneous records of the supplements he consumed.

140. The delay claim is therefore dismissed.

B. Evidence at the Hearing

141. Prior to addressing the issues of no (i) fault/negligence, (ii) intent, and (iii) no significant fault/negligence, the Panel summarizes evidence provided at the Hearing as follows.

142. Factual evidence was provided to the Panel at the Hearing by the Second Respondent, Mrs Verity Evans, and Dr David Roberts concerning the Second Respondent's supplement use, his anti-doping practices, and the impact of the proceedings on the Second Respondent and his family.

143. The Panel also received expert evidence from Professor Christiane Ayotte, Professor David Cowan, Professor Pascal Kintz, and Dr Diederik Smit in a "hot tub" session.

The Second Respondent

- In cross-examination, the Second Respondent confirmed that he played for Surrey and Manchester Originals in 2022 and was tested on approximately 20 occasions, giving urine and blood samples.

- He confirmed that he filled out a Doping Control Form ("DCF") on each occasion and was aware of how to fill it out correctly.

- He confirmed that he is now aware that supplements can be contaminated, but was not aware of that at the time.

- He confirmed that he had always been told not to take protein that was not batch-tested, and that his knowledge was as it was — he was told to check supplements and medication, but outside of that he did not show a great deal of interest in the contamination of supplements.

- He confirmed that the tables of supplements he used or may have used were compiled by himself and his lawyers, with the information coming from the clubs — Surrey and Manchester Originals.

- Of the 91 products across the six tables submitted with his Answer, everything listed was either an Informed Sport product or, if not an Informed Sport product, returned a negative test.

- He confirmed that he had a routine based around match days and training days, and that he was certain he took a protein shake.

- He confirmed that he did not keep a list of consumed supplements and was not the only one who did not keep a list.

- He explained that medication was listed in bold on the DCF and he only noticed in the small print that supplements were also required, and that he listed the medication he took that morning. He confirmed that he listed no supplements on the DCF and had always done it that way.

- He confirmed that the sample collection took place on 23 August 2022 at 11:11 am, that he gave both blood and urine, and that the process concluded at 11:37 am.

- The Second Respondent confirmed that he had not listed the supplements he had taken prior to the doping control test, and that in his second witness statement he gave as a reason that he was in a rush to return to training as he was captain of Manchester Originals.

- He confirmed that he was always careful not to consume prohibited supplements and that where possible he used supplements which were Informed Sport tested.

- He confirmed that he identified eight hydration supplements he may have consumed in the weeks prior to sample collection, and that the only item missing was protein, which he would have taken in the 48 hours before the test.

- He confirmed that there were 13 Candidate Supplements which he had not personally been able to test but which he considered may have been the source of the AAF, all of which were Informed Sport certified products.

- He confirmed that three of those 13 were subject to blind product testing, with negative results.

- He confirmed that three of his teammates were tested on the same date as him and that he was unaware of any positive tests from those teammates or from Manchester Originals, Surrey, or Lancashire players.

- In response to questions from the Panel, the Second Respondent confirmed that as part of The Hundred, Manchester Originals operated under the ECB and were expected to supply supplements through Informed Sport.

- He confirmed that he relied on the club providing supplements from Informed Sport and that it was not common practice to independently check supplements provided to him by his clubs.

- He confirmed that he could see the supplements and tubs and that they were Informed Sport.

- He confirmed that the Strength and Conditioning coach operated under a strict protocol to look after the players. Other witness evidence supported this.

Mrs Verity Evans

- Mrs Verity Evans described the impact of the proceedings on her, the Second Respondent, and their family.

- Mrs Evans confirmed that the Second Respondent takes ibuprofen and paracetamol, and that – as an example of the Second Respondent's diligence – he would check what specific Sudafed product he was using before taking it, using Global DRO, and that they would always make sure they had the right version as Sudafed comes in different versions, some being permissible and some not.

Dr David Roberts

- In cross-examination, David Roberts (Director of Medical Services at Lancashire Cricket Club and Head of Sport Science and Medicine at Manchester Originals) confirmed that all supplements which remained available to players were part of the Informed Sport programme and were all batch-tested to confirm the absence of banned substances.

- He confirmed that the sports science team supporting the Manchester Originals, led by him, ensured that supplements were available at every match and training session.

- He confirmed that no record was kept of which supplements each player took, as that was not normal practice.

- He confirmed that no other players who used or may have used the same supplements tested positive for ostarine.

- He confirmed that no record was kept of when a tub of a supplement was finished and a new one opened.

- He confirmed that if the AAF notification had come earlier, he may have had leftover supplement stock, but acknowledged that he could not be more definitive than that.

- He confirmed that the Hundred tournament (in which the Second Respondent participated as a player for the Manchester Originals) ran from 3 August to 3 September, and that the end of the cricket season was around 28 or 29 September. He confirmed that supplements were discarded in October 2022 or handed out to players travelling overseas.

- Dr Roberts confirmed that he could not be more definitive as to when supplements would have been disposed of, and that if he did have stock available in late October it would not necessarily have been the same tub or container that the Second Respondent had used.

Expert hot tub session

- The Panel then heard expert evidence in a hot tub session. The Panel posed a series of agreed questions to the experts. The questions, and a summary of the experts' responses are set out as follows:

Question 1: Please could you introduce yourselves and summarise your expertise and experiences, as relevant to this matter.

- Professor Christiane Ayotte: former Director of the Doping Control Laboratory in Montreal, retired Professor at the National Institute of Scientific Research, with research focused on the detection of prohibited agents.

- Professor David Cowan: Professor of Pharmaceutical Science, Director of a WADA-accredited laboratory, involved in routine analysis and research, with continued work in the anti-doping field including interpretation of laboratory findings.

- Professor Pascal Kintz: Professor of Forensic Toxicology at the University of Strasbourg, involved in anti-doping since 1998, conducting testing for drugs including doping agents in hair samples.

- Dr Diederik Smit: Endocrinologist for seven years, with a PhD in anabolic steroids, running a clinic for users of anabolic substances and involved in a number of doping matters.

Question 2: What is the significance, if any, of metabolites being detected in the Athlete's sample?

- Professor Ayotte confirmed that the only solid result is the testing from the KCL laboratory, which confirmed the presence of ostarine in the urine sample.

- The concentration of Metabolite 1 was roughly estimated at 1 ng/ml, which should not be treated as a firm concentration but as a qualitative assessment.

- She stated that she opposed the conclusion of Professor Thevis that the pattern of metabolites indicated that the source of the doping was an ingestion of 10 mg approximately 10 hours before the sample was taken.

- Professor Cowan confirmed that the metabolites are, in his opinion, of no relevance, given the huge variability between individuals.

- Professor Kintz confirmed that from a single urine measurement, including metabolites, one cannot establish a dose, and that there is no published paper permitting that interpretation.

Question 3/4: Does the presence and/or concentration and/or absence of the M1a and/or M1b metabolites (as defined in the Walpurgis Study) assist in estimating what dose of ostarine may have been ingested by the Athlete? Does the presence and/or concentration and/or absence of the M1a and/or M1b metabolites assist in establishing when the Athlete may have ingested ostarine?

- Professor Ayotte confirmed that the testing for M1A and M1B was not from a validated assay, and that a conclusion based on the absence of M1A does not rest on solid grounds.

- Professor Cowan confirmed that the distinction is between proof of presence and proof of absence, and that the data does not prove that a 10 mg dose was taken.

- Professor Kintz confirmed that if the dose is unknown, it is obvious that the moment of last exposure cannot be established.

- The experts agreed that the data generated for the Walpurgis study are limited and should be taken into consideration when interpreting the Second Respondent's results, but that these cannot be used for purposes other than discussing microdosing.

Question 5: In his witness statement of 1 December 2022, Professor Kintz concludes that, "This result [i.e., negative head hair test for ostarine] demonstrates that the donor has not been repetitively exposed to ostarine in the last 5 months."

a. Is there scientific data which establishes the minimum dosage of ostarine required to cause a positive finding in hair?
b. Is there scientific data which establishes the minimum number of doses of ostarine required to cause a positive finding in hair?
c. Is there scientific data which establishes the frequency of doses of ostarine required to cause a positive finding in hair?
d. Is the quality of the hair evidence affected by other factors such as the lapse in time between hair sample collection and AAF, the non-segmented analysis method, the limit of quantification, interindividual variation, etc.?

- On the significance of the negative head hair result for ostarine, Professor Ayotte confirmed that she disagreed with Professor Kintz's conclusion from the hair test.

- She confirmed her view that 10 mg cannot be detected in hair, and that the Alvarez paper relied upon by Professor Kintz does not involve a controlled excretion study. It was on this basis that Professor Ayotte said that Professor Kintz could not rely on the study.

- Professor Kintz conceded that the testing in the Second Respondent's case was conducted using an instrument less sensitive than that used in the Alvarez paper, and noted that the Alvarez paper was peer-reviewed and published in a high-impact journal.

- He confirmed that the Alvarez paper provides data establishing the minimum dosage detectable in hair as 20 mg from a single exposure.

Question 6: How is your position impacted by the negative armpit hair Ostarine testing result, which sample was collected on 10 March 2022?

- Professor Ayotte confirmed that the negative armpit hair finding adds nothing further to the case.

- Professor Kintz confirmed that when comparing armpit hair and head hair, armpit hair concentration is consistently higher than head hair for pharmacologically equivalent substances such as anabolic steroids, due to greater incorporation through perspiration.

Question 7: Do you agree that repeated dosing of Ostarine is necessary for increases in muscle strength to be achieved?

- On whether ostarine would need to be taken in an efficacious performance-enhancing dose, Professor Ayotte confirmed that if doping is established through

the presence of a substance, the question of whether the dose was sufficient to enhance performance does not arise.

- Professor Cowan confirmed that dose-response studies have been performed and that the general understanding is that multiple doses are required, combined with an appropriate level of exercise.

- Professor Kintz confirmed that ostarine requires at least six to twelve weeks of administration, even at low doses, to produce effects in elderly or cancer patients.

- Dr Smit confirmed that for anyone using anabolic steroids or SARMs, a minimum of several weeks is required to produce results. This was regardless of whether the user was consuming ostarine for the purposes of hypertrophy or anabolic performance enhancement.

Question 8: Do you agree that an athletic male in their 30s would likely not achieve increases in muscle strength using a one-off dose of Ostarine?

Question 9: Do you agree that an athletic male in their 30s would likely not achieve increases in muscle strength using multiple doses of Ostarine over a period of one week or less?

Question 10: Do you agree that "performance enhancing" may not necessarily mean the same thing for an athlete who is not subject to anti-doping rules, such as a bodybuilder, as it would for an athlete who is subject to anti-doping rules?

- It was noted that the questions 8-10 covered substantively the same point of the efficacy of ostarine for the purposes of performance enhancement and whether repetitive dosing was required to obtain any such performance enhancement.

Question 11: Does ostarine have the same efficacy as testosterone?

- Professor Ayotte confirmed that ostarine mimics testosterone and has similar activity.

- Professor Kintz confirmed that ostarine was initially developed to avoid the side effects of anabolic steroids, primarily for oral administration (given many people's aversion to injections).

- Dr Smit explained that there was no clinical evidence of ostarine being consumed for the purposes of recovery benefit (nor, in his experience, was there any anecdotal evidence). All clinical research concerns muscle size or strength.

Question 12: Is an athlete's urinary steroid profile altered by the use of ostarine?

- Professor Ayotte confirmed that there is no data supporting the proposition that the steroid profile would be affected by ostarine.

- On the overall analytical findings, Professor Ayotte confirmed that the only conclusion is that ostarine was taken and passed through the body, and that it is impossible to determine the dosing or timing based on the test result alone.

- Professor Cowan confirmed that the concentration alone tells us that ostarine passed through the body, and that the dose and time being unknown make it impossible to be definitive about what was taken or when.

- Professor Kintz confirmed that the concentration is low, noting that 100 ng has been found in some confirmed users.

Question 13: What conclusions can be drawn from the overall analytical findings?

- Professor Ayotte explained that the only conclusions that can be drawn from the overall analytical findings were that ostarine was taken and passed through the body. It was not possible, in her view, to determine the dose and timing based on the test result alone. She added that from experience of approximately 50 doping control cases, 94% of AAFs involved concentrations at or below 1 ng, and that she would dispute any conclusion that a concentration of 1 ng is inconsistent with contamination or the tail end of a larger dose.

- Professor Kintz confirmed that he maintains his position in response to Professor Thevis' submission that a 10 mg dose corresponds to the pattern of ostarine and metabolites found in the Second Respondent's sample.

- Professor Cowan confirmed that he accepts that a contamination event is a possible explanation for the finding, but cannot exclude the tail end of a course of administration.

Question 14: Do you agree that a urine concentration of less than 1 ng/mL (as in the Athlete's case) can be interpreted in two different ways:

a. it can be the tail end of excretion following deliberate consumption; or

b. it can be the consequence of a contamination?

- On whether deliberate or inadvertent use is more likely, Professor Ayotte confirmed that there is no threshold or reporting level that resolves this question, and that the finding proves ingestion but does not permit any further deduction.

- Professor Kintz confirmed that it is more likely than not that the scenario here is one of contamination, given that deliberate use would require repetitive dosing and would show up in hair. He added that one would have to be very unwise to use the substance intentionally: it is well known as being dangerous, and was withdrawn from the market because it causes liver injury. He opined that, more likely than not, the scenario here is one of contamination or sharing of sports equipment.

Question 15: Is there anything that excludes the possibility that the 0.9ng/mL of ostarine detected in the Athlete's sample is the tail end excretion of a deliberate dose?

Question 16: Is there anything that tends to suggest that the 0.9ng/mL of ostarine detected in the Athlete's sample is the consequence of a contamination?

- The experts maintained their positions vis-à-vis questions 15 and 16, which were substantially addressed in earlier comments.

C. No Fault or Negligence

144. The definition of No Fault or Negligence, found at Appendix 1 to the ECB ADR, expressly requires the Second Respondent to establish how the Prohibited Substance entered his system:

"*The Cricketer or other Person establishing that he/she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he/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 Protected Person or Recreational Player, for any violation of Article 2.1, the Cricketer must also establish how the Prohibited Substance entered his or her system*."

145. This is a strict prerequisite. As the Panel held in CAS 2024/A/10647, the use of the word "*must*" in the definition of an equivalent provision positively requires the Second Respondent to prove how the Prohibited Substance entered the Second Respondent's system as a threshold requirement.

146. The Panel recalls that Article 10.5 of the ECB ADR provides that if the Second Respondent can establish he bears No Fault or Negligence in relation to the AAF, the otherwise applicable period of ineligibility will be eliminated.

147. The First Instance Decision did find that the Second Respondent bore No Fault or Negligence in relation to the AAF, but that finding was not upheld in the Appealed Decision.

148. The Panel notes the Appellant's position is that the Second Respondent's submission that he bears No Fault or Negligence is not compatible with his submission that the AAF was caused by contamination by virtue of Article 10.5 of the UK ADR, which provides:

"*No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1) and have been warned against the possibility of supplement contamination)*".

149. However, as set out above, it is the ECB ADR that is applicable here, not the UK ADR. There is no provision that is equivalent to Article 10.5 of the UK ADR in the ECB ADR.

150. In support of his position that he bears No Fault or Negligence, the Second Respondent submits that he can prove, on the balance of probabilities, that the source was inadvertent contaminated supplement ingestion by way of either: environmental contamination via the changing room used for training by the Manchester Originals, or by way of contamination of one or more of 13 Candidate Supplements consumed or used by him.

151. In CAS 2010/A/2230, the sole arbitrator held (at paragraph 11.12) that "*[t]o permit an athlete to establish how a substance came to be present in his body by little more than a denial that he took it would undermine the objectives of the Code and Rules*."

152. In CAS 2023/A/9916, the Panel confirmed that "*[n]umerous CAS cases confirm the same approach… As the analysis of these cases reveal, protestations of innocence and speculations do not suffice and the [rules] and case law are aligned to require specific, concrete evidence from the concerned athlete about the origin of the Prohibited Substance detected in his/her body*."

153. **Environmental contamination**. The Panel considers that no factual evidence or substantive explanation (beyond mere speculation that it was a possible cause of the AAF) was proffered by the Second Respondent. This manifestly falls short of what is required to prove no fault or negligence.

154. **Supplement contamination**. Regarding the Second Respondent's position that the AAF was caused by one or more of the 13 Candidate Supplements (being hydration and protein supplements provided to him by Manchester Originals) which he may have used in the 48 hours prior to Sample collection, the Panel notes the following:

- The Candidate Supplements were all Informed Sport certified and had been batch-tested, with negative results.
- Three of the Candidate Supplements were subject to blind product testing by Informed Sport, also with negative results.
- The Cricket Regulator arranged for the manufacturers of eight Candidate Supplements to retest the relevant batches, also with negative results.
- No other Manchester Originals, Surrey, or Lancashire players tested positive for ostarine during the 2022 season, despite communal supplement use (and, indeed, common use of facilities).
- The Second Respondent did not maintain a contemporaneous record of which specific supplements he consumed.
- The specific tubs or containers used by the Second Respondent were no longer available for testing by the time of notification.

155. The Panel acknowledges the Second Respondent's submissions regarding the limitations of Informed Sport batch testing, including the large batch sizes, the limited number of samples tested per batch, the use of non-Informed Sport accredited manufacturers for certain products, and the potential for contamination of raw materials.

156. The Panel also acknowledges the evidence of Professor Cowan that the testing of supplements by commercial testing laboratories such as LGC/Informed Sport provides a generic cover that does not necessarily meet the sensitivity required to exclude the possibility of an athlete ingesting sufficient contaminant to produce an AAF. These are valid considerations.

157. Further, the Panel recalls that the experts agreed that both the contamination and intentional use scenario are equally possible, but did not opine whether a specific product was contaminated.

158. Accordingly, the Panel finds that the Second Respondent has not established, on the balance of probabilities, that the source of the ostarine in his Sample was a specific Contaminated Product.

159. In light of the foregoing, the Panel finds that the Second Respondent has not shown no fault or negligence.

D. Intent

160. Given the Second Respondent failed to show no fault or negligence, and ostarine is a non-specified substance, the starting point for the period of ineligibility is four years. It is for the Second Respondent to establish, on the balance of probabilities, that the ADRV was not intentional, which would reduce the period of ineligibility to two years.

161. The Panel considers the test for intention set out in Article 10.2.3 of the ECB ADR, is as applied in CAS 2017/A/5016 & 5036 and well recognized in CAS jurisprudence, where it is asked whether the athlete has "*proven, by a balance of probabilities, that he did not engage in a conduct which he knew constituted an anti-doping rule violation or knew that there was a significant risk that said conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk*".

162. The comment to Article 10.2.1.1 of the WADC (the equivalent provision to Article 10.2.1(a) of the ECB ADR) provides as follows:

"*While 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*."

163. This is an articulation of the strict approach taken in CAS jurisprudence, in which it has been found that a lack of intent can be established without establishing the origin of the prohibited substance, although only in the rarest of circumstances. The articulation of this approach is as follows:

- In CAS 2016/A/4534, the Panel held (at paragraph 37) that "*[w]here an athlete cannot prove source it leaves the narrowest of corridors through which such athlete must pass to discharge the burden which lies upon him*" (emphasis added).

- In CAS 2016/A/4919, the Panel concluded (at paragraph 66) that "*while this Panel assumes in favour of the Athlete that he does not have to necessarily establish how the prohibited 19-NA entered his system when attempting to prove on a balance of probability the absence of intent, in all but the rarest cases the issue is academic*."

- In CAS 2017/A/5016 & 5036, the Panel held (at paragraph 124) that "*the Athlete, even though he is not bound to prove the source of the prohibited substance, has to show, on the basis of the objective circumstances of the anti-doping rule violation and his behaviour, that specific circumstances exist disproving his intent to dope,"* and further (at paragraph 125) that *"an athlete may not merely speculate as to the possible existence of a number of conceivable explanations for the AAF [...] and then further speculate as to which appears the most likely of those possibilities to conclude that such possibility excludes intent*."

- In CAS 2021/A/7579 & 7580, the Panel held (at paragraphs 133, 155, and 172) that "*Although this remains an area where the jurisprudence at present appears unsettled, there is at least clear consensus at the following level of generality: speculations, declarations of a clear conscience, and character references are not sufficient proof. It is an unacceptable paradox to posit, as the Appealed Decision apparently does, that the effect of the apparent unavailability of "reliable, relevant scientific" (i.e. objective and probative) evidence is to give the Athlete the same benefit as if she had found and presented it*."

  "*As certitude with respect to the source of contamination decreases, so the Athlete's chances of prevailing depend on a counterbalancing increase of the implausibility of bad motive and negligence. The doping hypothesis must no longer (on balance) make sense in all the circumstances, and the charge of recklessness must (on balance) be overcome*."

  "*It should be clear from what has already been observed above that the present Panel is disinclined to give weight to uncorroborated assertions of the accused and persons close to him or her. The point is made often enough: denials and protestations of innocence are the common coin of the guilty as well as the innocent*." (Paragraph 172).

164. In determining whether the Second Respondent has exceptionally rebutted intent without establishing the source, the Panel notes the following:

165. First, the Second Respondent has been acquitted twice (by the NADP and by the Appeal Tribunal) and has suffered considerably as a result of these proceedings, as evidenced by the testimony of Mrs Evans. This is a rare situation in which the Panel is examining the matter for a third time, almost four years after the relevant sample was provided.

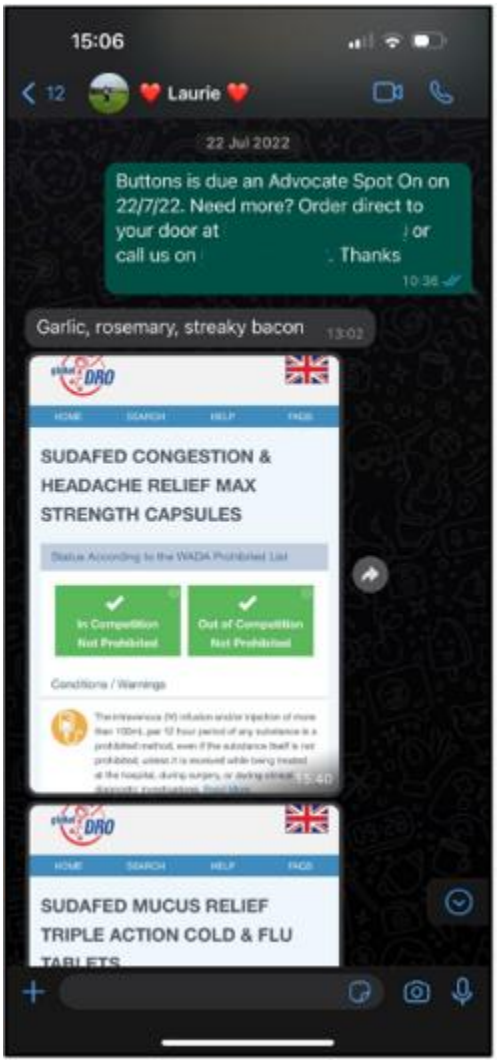
166. Second, the experts agreed that both the contamination and intentional use scenario are equally possible. This reflects the following considerations:

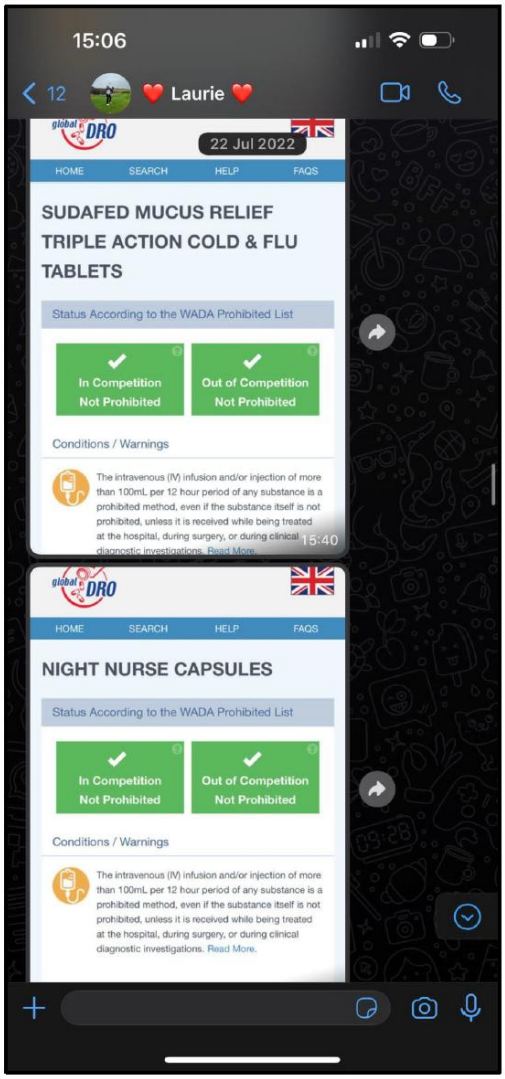
- The scientific evidence in this case is subject to significant variability.
- The experts were in agreement that it is not possible to determine the dose or timing of ingestion from the Sample results alone.
- The concentration of ostarine detected in the Second Respondent's Sample (approximately 0.9 ng/ml) is low.
- The results of the Further Analysis — while consistent with a scenario of exposure to approximately 10 µg of ostarine approximately 11 hours prior to sample collection — are not conclusive. Professor Thevis himself confirmed that this was "a possible explanation" rather than a probable one. The method used for the Further Analysis was non-validated, and the experts agreed that significant inter-individual variability means that the results cannot be used to draw firm conclusions about the dose or timing of ingestion.
- The hair analysis conducted by Professor Kintz returned negative results for ostarine. The Panel notes, however, that the experts were divided on the significance of this finding. Professor Ayotte confirmed that 10 mg of ostarine cannot be detected in hair based on the available data, and that the Alvarez paper relied upon by Professor Kintz does not involve a controlled excretion study. Professor Kintz maintained that the hair results rule out repetitive exposure to ostarine, and that armpit hair concentration is consistently higher than head hair for pharmacologically equivalent substances.

167. Accordingly, while the scientific evidence does not demonstrate that contamination is likely (>50%), it shows it is possible (<50%). It is against that threshold that other factors and the totality of evidence is considered.

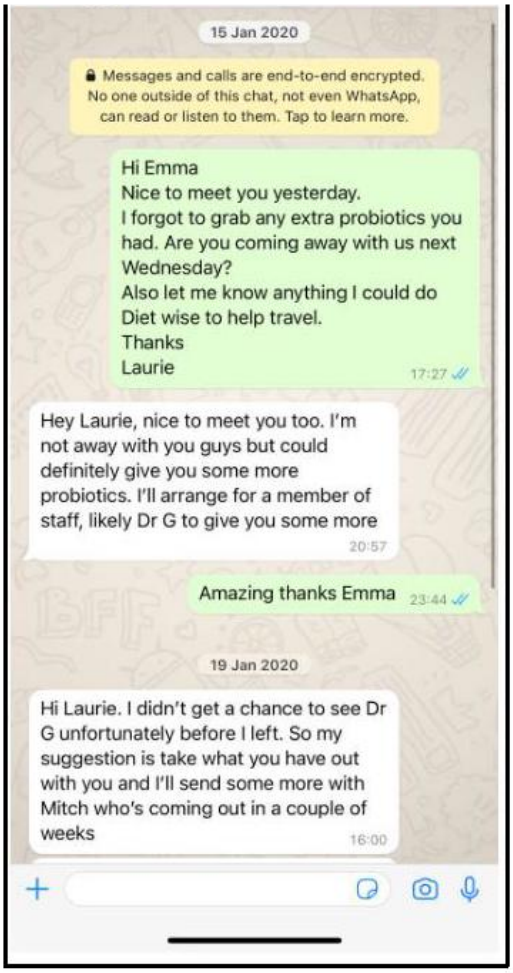
168. Third, the Second Respondent has provided contemporaneous evidence of notable diligence in relation to anti-doping obligations:

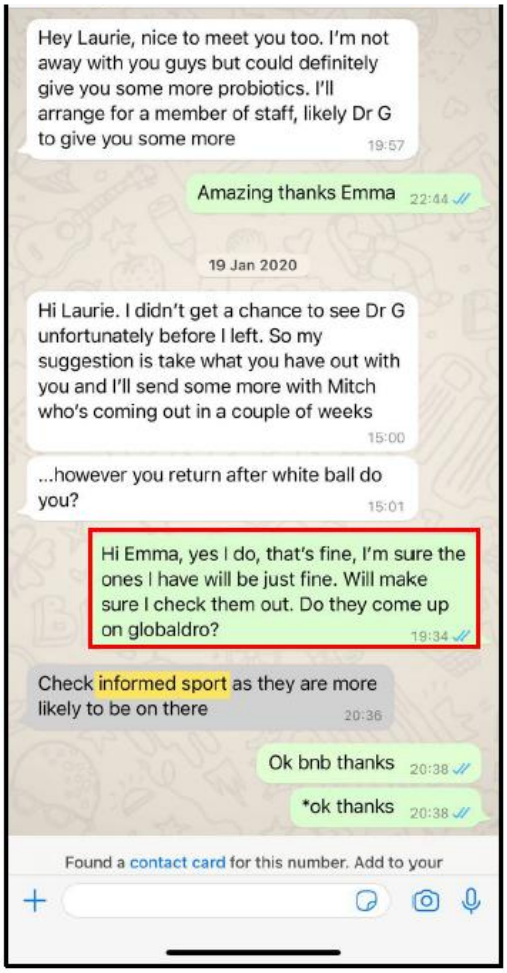
- Just weeks prior to the sample collection that gave rise to the AAF, the Second Respondent performed a Global DRO search for Sudafed, notwithstanding that Sudafed is a common, widely available over-the-counter cold and flu medication.





- Prior to the Sample collection, the Second Respondent questioned products provided to him by the ECB and queried whether those were safe to use before using them.





- In the months prior to his positive test, the Second Respondent declined to use breakfast food being offered to him by a potential sponsor because the protein in the product had not been batch-tested by Informed Sport.

22:32

28 Messages

Jac Chetland
To: Laurie Evans
19/04/2022

Breakfast club

Hey Laurie

Ollie messaged and said you may be keen to take our affiliate program for a test run, below is some more info.

Apart from bragging rights, the breakfast club is a no-strings-attached club of Surrealists that share a passion for putting out thumb-stopping content and, well, eating cereal. This month we are launching a pilot program, and we plan to improve as we learn on the go. We may not get everything right from day 1, but we will keep working to make sure that it can be the best breakfast club out there.

What's included.

1. Free Cereal, obviously. We will send you a 4 pack of your choice, every month
2. Sneak preview to any new launches, limited editions or any new news coming up
3. A referral code, to earn as your audience use the code (more information on this to follow)
4. Exclusive Surreal Merch drops, treats & surprises

Referral code.

1. We will share with you a bespoke code offering your audience £5 off their orders. Every time they order. These are to be shared on your pages as you like, and we will refresh the codes monthly
2. We will give you a [redacted] on every single order made using your code (excluding

22:32

28 Messages
Breakfast club

Referral code.

1. We will share with you a bespoke code offering your audience £5 off their orders. Every time they order. These are to be shared on your pages as you like, and we will refresh the codes monthly
2. We will give you a [redacted] on every single order made using your code (excluding shipping rates).

No strings attached, from anyone.

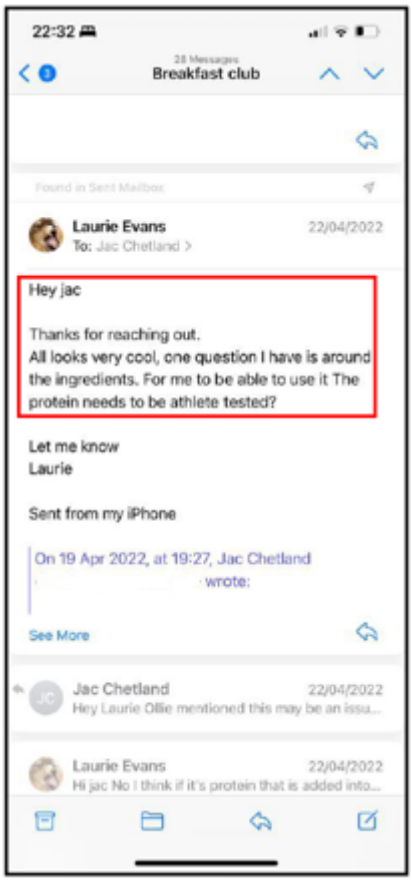
1. Post about us daily, weekly, monthly, or not at all. We want to work with you because we think you're great at creating, and want you to create the content that works for you
2. We may also have to go in separate directions, or change the program as we grow. We always aim to be honest & transparent in everything we do, the program is to grow with you as we grow, and while can't predict the future of the program, our commitment to you is to keep you updated regularly

If you'd like to give this a go, let me know. All I need is;

1. The address you want Surreal sent too
2. Your bank details, so that we can pay you your commission – when the time comes

We hope you'll join us, but of course rule #1 is no strings attached – so opt in our out as you like.

Keep it surreal
Jac



22:32

28 Messages
Breakfast club

Found in Sent Mailbox

Laurie Evans
To: Jac Chetland
22/04/2022

Hey jac

Thanks for reaching out.
All looks very cool, one question I have is around the ingredients. For me to be able to use it The protein needs to be athlete tested?

Let me know
Laurie

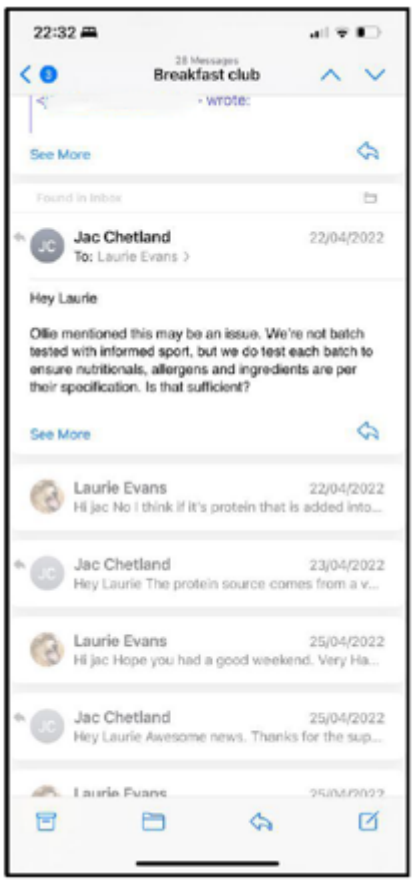
Sent from my iPhone

On 19 Apr 2022, at 19:27, Jac Chetland wrote:

See More

Jac Chetland 22/04/2022
Hey Laurie Ollie mentioned this may be an issu...

Laurie Evans 22/04/2022
Hi jac No I think if it's protein that is added into...



22:32

28 Messages
Breakfast club

wrote:

See More

Found in Inbox

Jac Chetland
To: Laurie Evans
22/04/2022

Hey Laurie

Ollie mentioned this may be an issue. We're not batch tested with informed sport, but we do test each batch to ensure nutritionals, allergens and ingredients are per their specification. Is that sufficient?

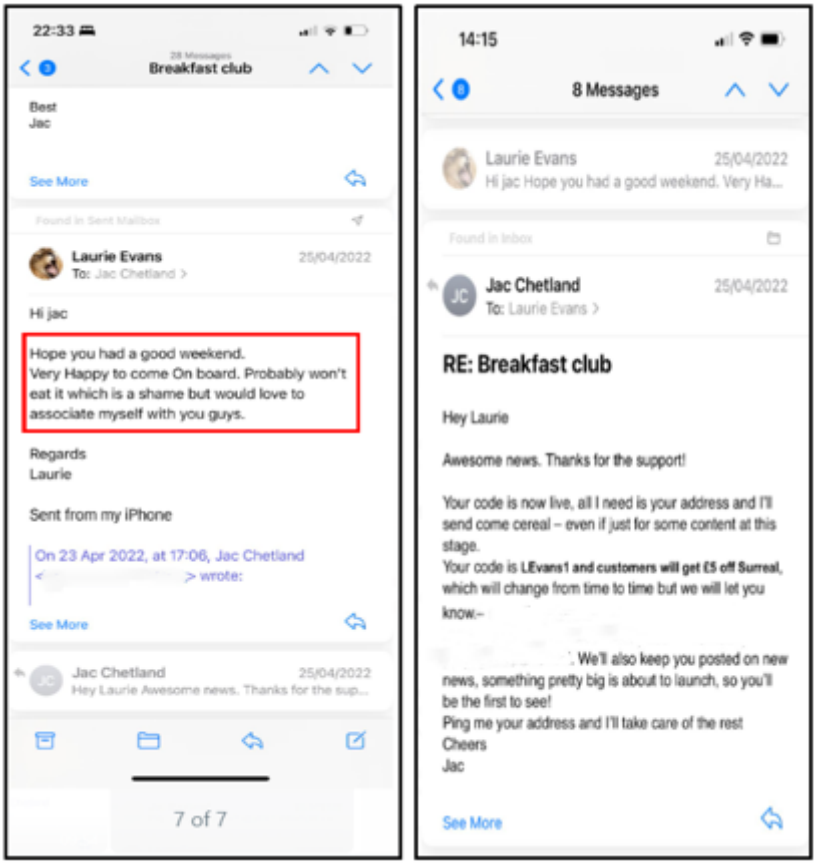
See More

Laurie Evans 22/04/2022
Hi jac No I think if it's protein that is added into...

Jac Chetland 23/04/2022
Hey Laurie The protein source comes from a v...

Laurie Evans 25/04/2022
Hi jac Hope you had a good weekend. Very Ha...

Jac Chetland 25/04/2022
Hey Laurie Awesome news. Thanks for the sup...



169. The Panel considers this contemporaneous evidence to be of genuine probative value in determining the Second Respondent's credibility and certain degree of anti-doping diligence, that goes well beyond mere protestation of innocence, and trends away from a likely intentional doping scenario.

170. Fourth, as confirmed by Prof. Cowan, the only plausible intentional use scenario would involve the administration of ostarine on one or more occasions several days to one week before the urine Sample was provided, in a dose of approximately 3 mg. Dr Smit confirmed that such a scenario is unrealistic, as a dose of 3 mg of ostarine would offer no performance-enhancing benefit whatsoever, and it would be illogical, pointless and unusual to use such a low dose of ostarine for such a short period. Professor Cowan himself accepted at the NADP hearing that it is "*unlikely one would take a microdose [of ostarine] deliberately*."

171. Fifth, the Second Respondent's steroid profile, as reviewed by Professor Cowan, shows no evidence of the use of a large amount of ostarine or of any other substance that might affect that profile.

172. Sixth, the hair analysis is consistent with the absence of repeated, large-dose use of ostarine. While this factor is not of overall significant probative value, the Panel nonetheless considers it relevant in the review of the totality of evidence on the issue of intent.

173. Seventh, the Second Respondent has a clean anti-doping record, having been tested on approximately 20 occasions over his career without any previous AAF.

174. Eighth, the Panel has also considered factors that weigh against the Second Respondent on the question of intentionality.

- The Second Respondent did not disclose any supplements on his DCF, despite being an experienced professional cricketer of 18 years' standing who had been tested on approximately 20 occasions and who claims to take his anti-doping responsibilities extremely seriously.
- The Second Respondent did not maintain a contemporaneous record of the supplements he consumed.
- The Second Respondent was the only player among his teammates to test positive for ostarine, despite communal supplement use.

175. The Panel considered the totality of the evidence and the considerations set out above and concludes that, on the balance of probabilities, there exist specific circumstances disproving the Second Respondent's intent to dope. The Panel emphasizes that this is a rare case confined to its own unique facts.

E. No Significant Fault or Negligence

176. The definition of No Significant Fault or Negligence, found at Appendix 1 to the ECB ADR, expressly requires the Second Respondent to establish how the Prohibited Substance entered his system:

"*The Cricketer or other Person establishing that his/her 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 Protected Person or Recreational Player, for any violation of Article 2.1, the Cricketer must also establish how the Prohibited Substance entered his or her system*."

177. Accordingly, while it is, in principle, possible to rebut intent without establishing specific source, a stricter approach applies to establish no significant fault or negligence.

178. As explained in the section on No Fault or Negligence, the Second Respondent failed to establish, on the balance of probabilities, that the source of the ostarine in his Sample was a specific Contaminated Product. For the same reasons, the Panel finds that the Second Respondent has not shown no significant fault or negligence.

F. Sanction

179. **Period of ineligibility**. Given the Second Respondent has rebutted the presumption of intent, but has not shown no significant fault or negligence, the applicable period of ineligibility is two years, pursuant to Article 10.2.2 of the ECB ADR.

180. **Commencement date for the period of ineligibility**. The Panel notes that at the outset of the Hearing, the Appellant expressed that it would be content to accept that any period of ineligibility (whether 2 or 4 years) run from the date of the First Instance Decision (28 May 2024), and UKAD did not object to this position.

181. The Panel considers this appropriate for the following reasons:

- First, as explained in detail in the section on prejudice from delay, there were demonstrable delays in the processing of the Sample, which in CAS jurisprudence led to backdating of the commencement of the period of ineligibility.

- Second, the Second Respondent has been acquitted twice (by the NADP and by the Appeal Tribunal) and has suffered considerably as a result of these proceedings, as evidenced by the testimony of Mrs Evans. This is a rare situation in which the Panel is examining the matter for a third time, almost four years after the relevant sample was provided.

- Third, all Parties are in consensus on the issue of backdating.

182. Accordingly, in the exercise of its discretion under Article 10.13.1 of the ECB ADR, the Panel finds that the period of ineligibility is deemed to have commenced on 28 May 2024.

183. **Credit for provisional suspension**. The Second Respondent was provisionally suspended from 1 November 2022 to 29 March 2023. Pursuant to Article 10.13.2(a) of the ECB ADR, the Second Respondent shall receive credit for this period of provisional suspension against the period of ineligibility.

184. **Disqualification of results**. Pursuant to Article 10.10 of the ECB ADR "*individual results of the Cricketer obtained from the date that the Sample in question was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through to the commencement of any Provisional Suspension or Ineligibility period, shall (unless the Anti-Doping Tribunal determines that fairness requires otherwise) be Disqualified with all of the resulting Consequences, including forfeiture of any individual medals or other prizes awarded*."

185. The Appellant submits that all of the Second Respondent's results from 23 August 2022 to 28 May 2024 should be disqualified.

186. When considering when fairness requires that results are not disqualified, a range of factors have been considered. In CAS 2005/A/951, the panel found that where an athlete's degree of fault is low, fairness requires only the result of the event at which the sample was collected ought to be disqualified. In CAS 2011/A/2671 and CAS 2007/A/1283, panels have considered whether the results that would be disqualified have been "*affected by any doping practice*".

187. The Panel recalls that the Second Respondent rebutted intent but did not establish no significant fault or negligence. Moreover, while there were delays in the processing of the Sample, those were remedied with a generous backdating of the commencement of the period of ineligibility.

188. Accordingly, the Panel does not consider that fairness would require that the results not be disqualified.

189. In light of the foregoing, the Panel finds that all individual results earned by the Second Respondent from and including 23 August 2022 to 28 May 2024 shall be disqualified, with all resulting consequences, including forfeiture of any individual medals or other individual prizes awarded specifically to the Second Respondent in his individual capacity (including, for instance, any person of the match or player of the round awards). For the avoidance of doubt, the Panel notes that no submissions were made as to Consequences in relation to team results (pursuant to Article 11 of the ECB ADR), nor is there any basis in the evidence file to order such Consequences. Accordingly, the present disqualification order applies solely to the Second Respondent in his individual capacity and does not extend to the results of the teams he played for between 23 August 2022 and 28 May 2024, which remain unaffected.

IX. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the World Anti-Doping Agency on 9 April 2025 against United Kingdom Anti-Doping Limited and Mr Laurie Evans with respect to the decision of the National Anti-Doping Appeal Panel dated 5 March 2025 is partially upheld.

2. The decision of the National Anti-Doping Appeal Panel of 5 March 2025 is set aside.

3. Mr Laurie Evans is sanctioned with a period of ineligibility of two (2) years, which commenced on 28 May 2024, with credit given for any period of provisional suspension.

4. All individual results earned by Mr Laurie Evans in his individual capacity from and including 23 August 2022 to 28 May 2024 shall be disqualified, with all resulting consequences, including forfeiture of any individual medals or other prizes awarded. The disqualification order does not extend to the results of the teams that Mr Laurie Evans played for between 23 August 2022 and 28 May 2024, which remain unaffected.

5. (…).

6. (…).

7. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 30 June 2026

THE COURT OF ARBITRATION FOR SPORT

Vladimir Novak
President of the Panel

Ulrich Haas
Arbitrator

Jan Paulsson
Arbitrator