

AMERICAN ARBITRATION ASSOCIATION
North American Court of Arbitration for Sport Panel

Re: 77 190 00288 08 JENF

In the Matter of the Arbitration between

USADA
and
Jessica Hardy

AWARD OF ARBITRATORS

WE, THE UNDERSIGNED ARBITRATORS, having been designated by the above-named parties, in accordance with the United States Anti-Doping Agency Protocol for Olympic Movement Testing, and having duly heard the proofs and allegations of the parties, do hereby find and issue this Award, as follows:

WHEREAS, Claimant UNITED STATES ANTI-DOPING AGENCY ("USADA") and Respondent JESSICA HARDY agree that testing of the supplements used by Respondent JESSICA HARDY in July 2008 (hereinafter "SUPPLEMENT TESTING") has not yet been completed; and

WHEREAS, Claimant USADA and Respondent JESSICA HARDY agree that the completion of the SUPPLEMENT TESTING is potentially relevant to issues in this case; and

WHEREAS, the parties appeared before the Panel of arbitrators in the above-entitled matter on July 31, 2008, to present limited evidence on the issue of whether Respondent JESSICA HARDY has violated La Fédération Internationale de Natation ("FINA") Doping Control Rules DC 2.1 and 2.2; and

WHEREAS, the parties and the Panel agreed on July 31, 2008 to defer evidence as to whether exceptional circumstances exist pursuant to FINA DC 10.5 that might reduce or eliminate the presumptive period of ineligibility until after the SUPPLEMENT TESTING has been completed.

Therefore, the Panel hereby orders:

1. The hearing has been bifurcated into two phases. The first phase of the arbitration hearing (hereinafter referred to as "PHASE ONE") was limited to the issue of whether Respondent Jessica Hardy has violated FINA DC 2.1 and 2.2 for the presence of the substance clenbuterol in sample number 1517756 and the imposition of any presumptive period of ineligibility. The second phase of the arbitration hearing (hereinafter referred to as "PHASE TWO") will be limited to the issue of whether exceptional circumstances exist pursuant to FINA DC 10.5 that might reduce or eliminate the presumptive period of ineligibility. The issues to be raised in PHASE TWO will be limited to (1) the issue of supplement contamination and (2) the issue of sabotage.

2. The parties agree that a hearing on PHASE TWO will be held on August 5, 2008.

3. USADA presented evidence in the hearing in PHASE ONE of the accuracy of the laboratory results and that the urine sample at issue was JESSICA HARDY's. Respondent offered no evidence in opposition to a finding of a doping control rule violation pursuant to FINA DC 2.1 and 2.2. Accordingly, the Panel hereby finds that JESSICA HARDY has violated FINA DC 2.1 and 2.2 for which the presumptive two year period of ineligibility is appropriate pursuant to FINA DC 10.2, and a two year period of ineligibility is hereby imposed effective upon the date of this decision, subject

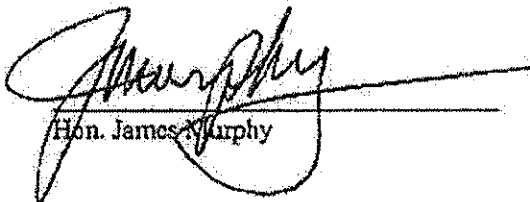
only to Respondent's right to seek a reduction in the period of ineligibility in PHASE TWO and/or to appeal to the Court of Arbitration for Sport ("CAS") as provided herein. Respondent's competitive results from the date of the positive doping control test (July 4, 2008) shall also be disqualified. Respondent has specifically reserved the right to contest the finding of a doping control rule violation pursuant to FINA DC 2.1 and 2.2 in any appeal proceeding before CAS within twenty-one days of the date of this Award.

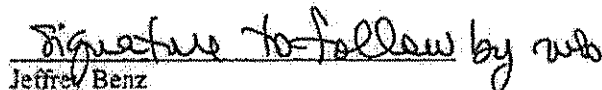
4. Respondent has also reserved the right to waive PHASE TWO of this arbitration hearing and proceed straight to an appeal to the CAS, in which event Respondent shall notify the Panel of her appeal to CAS and this Award shall be the final and binding award of this Panel in full settlement of all claims submitted to this Arbitration.

5. Respondent has been advised that neither USADA nor this Panel has any control over the timing of any CAS appeal and the parties' agreement and this Award is not contingent upon any promise that an appeal, if any, could be heard within any particular time period.

6. This order shall become effective at 5:00 p.m. PDT on August 1, 2008.


Maïdie Oliveau, Chair


Hon. James Murphy


Jeffrey Benz