

**Decision of the IBSF Doping Panel**

In the matter of

**Mr. Jonathan Francis**

To:  
Mr. Jonathan Francis  
1096 Hillcrest Lane SW  
Airdrie, T4B 3W2  
CANADA

By e-mail: francislogisticsltd@gmail.com  
Date: August 24, 2017

## **I BACKGROUND**

1. Mr. Francis, born on January 27, 1989, is registered with Bobsleigh CANADA Skeleton.
2. On January 11, 2017 a sample of urine (Sample number 1590906) was collected from Mr. Francis (the "Sample") at the IBSF North American Cup. On February 7, 2017 the United States Anti-Doping Agency ("USADA") informed Mr. Francis that the Sample was sent to the World Anti-Doping Agency ("WADA") accredited laboratory in Salt Lake City, Utah, U.S.A. for analysis. The accredited Laboratory reported an Adverse Analytical Finding ("AAF") with regard to the above mentioned Sample. The A-Sample contains Clomiphene and its metabolite Hydroxyclophene. Clomiphene is listed as a Prohibited substance in the class of S4.3 Hormone and Metabolic Modulators on the WADA Prohibited List (Specified Substance, prohibited at all times).
3. USADA referred the results management of the Sample to IBSF.
4. On February 9, 2017, in accordance with the IBSF Anti-Doping Rules (the "**Rules**"), Mr. Francis and Bobsleigh Canada Skeleton were formally notified of the AAF by letter of the IBSF. Mr. Francis was informed that, in accordance with Article 7.9 of the Rules, a provisional suspension could be imposed against Mr. Francis at any time from the subject notification on and prior to the final hearing. Mr. Francis was informed through the notification about the consequences specified in article 10.2 of the Rules for a first offence, which means a period of ineligibility of up to 4 years in case of an intentional Anti-Doping Rule Violation ("ADRV").
5. The IBSF advised Mr. Francis in its notification of February 9, 2017 of his right to have the B Sample tested and advised him that he should inform the IBSF of his decision to have it tested by no later than by February 16, 2017. The B Sample analysis was planned to be performed on February 21, 2017 by the same WADA Accredited Laboratory which performed the A Sample analysis. Mr. Francis was advised that a failure to request the B Sample analysis within the specific time period provided would be considered as a waiver to the B Sample analysis.

6. The IBSF further advised Mr. Francis that should he waive the right to have the B Sample analysis, he will be deemed to have accepted the results of the "A" Sample analysis.
7. On February 9, 2017 Mr. Francis informed the IBSF by email that he would like to have the B-Sample tested. The B-Sample analysis took place on February 21, 2017 in Utah.
8. On March 3, 2017 the IBSF received the information from the accredited Laboratory in Utah that the result of the B Sample Analysis proved to be positive for the same AAF as was found in the A-Sample of Mr. Francis.
9. The IBSF notified Mr. Francis on March 9, 2017 of the above mentioned findings and invited him to provide the IBSF with a written explanation by March 23, 2017 and if so explain why he is of the opinion not to bear any fault or negligence or significant fault or negligence for the presence of the prohibited substance. It was explained to Mr. Francis that his case will be submitted to a panel of three members of the IBSF Doping Panel as soon as his file would be considered by the IBSF as complete  
In the case Mr. Francis would wish to be heard or present witnesses in person before the IBSF Doping Panel, he was entitled to request a hearing by March 23, 2017. He was informed that a failure to challenge the IBSF assertion that an Anti-Doping Rule Violation has occurred within the specific time periods provided, will be considered as a waiver to a hearing.
10. With the notification of March 9, 2017 the ADAMS Test Report of the B-sample was sent to Mr. Francis.
11. No response from Mr. Francis was received by the IBSF at the deadline of March 23, 2017. On March 24, 2017 the IBSF notified Mr. Francis of the fact that it did not receive any written explanation as well as no hearing request, for which reason the IBSF assumes that Mr. Francis waives his right to a hearing. Mr. Francis was informed that all documents were going to be send to the IBSF Doping Panel. With the notification of March 24, 2017 the IBSF forwarded the full Laboratory Documentations Package for the Sample 1590906 to Mr. Francis.
12. On March 24, 2017 Mr. Francis replied to the notification of the IBSF of March 24, 2017 as follows:

*"I just got back in town, I have not got s chance to, is there someone I can talk to?"*

The IBSF responded to Mr. Francis by email of March 27, 2017:

*"Dear Mr. Francis,*

*We have forwarded the information to our IBSF Doping Hearing Panel for its review and decision.*

*Amongst others, you may always contact your National Federation or a lawyer in case you seek legal help."*

13. The IBSF nor the IBSF Doping Panel have received any additional information or explanation from Mr. Francis or the Bobsleigh CANADA Skeleton since. The IBSF Doping Panel is of the opinion that Mr. Francis has been given sufficient time to provide any statement or explanation regarding the AAF and/or request for a hearing before the IBSF Doping Panel. It is in addition to that of the opinion that Mr. Francis must be considered to have waived his right to provide a written explanation or ask for a hearing. For that reason the IBSF Doping Panel will come up with the following decision.

## **II. DECISION IN RELATION TO THE ANTI-DOPING RULE VIOLATION**

### **II A. General Observations**

14. The IBSF Doping Panel noted that the Rules, based on the World Anti-Doping Code, effective from January 1, 2015 and the WADA Prohibited List 2017 are applicable to the facts of this particular case.
15. The Rules are applicable to any person who participates in sport at the international level. As mentioned above Mr. Francis is registered with the Bobsleigh CANADA Skeleton. The Rules are applicable to Mr. Francis.
16. Article 10 of the Rules sets out the various sanctions that can be applied to individuals for breach of the Rules.
17. The Panel notes that the presence of a Prohibited Substance in the body of an Athlete constitutes a violation of article 2.1 of the Rules. According to Article 10.2 of the Rules a violation of article 2.1 will lead to a period of ineligibility of four years where the violation does not involve a Specified Substance, unless the Athlete can establish that the Anti-Doping Rule Violation was not intentional. In the event the violation does involve a Specified Substance and the IBSF can establish that the doping rule violation was intentional, the period of ineligibility will be four years as well.

18. The AAF in the case of Mr. Francis does involve a Specified Substance (S4.3).  
The Prohibited WADA list 2017 stipulates: "*IN ACCORDANCE WITH ARTICLE 4.2.2 OF THE WORLD ANTI-DOPING CODE, ALL PROHIBITED SUBSTANCES SHALL BE CONSIDERED AS "SPECIFIED SUBSTANCES" EXCEPT SUBSTANCES IN CLASSES S1, S2, S4.4, S4.5, S6.A, AND PROHIBITED METHODS M1, M2 AND M3*".
19. This leads the IBSF Doping Panel to the general conclusion that the sanction on the AAF in the case of Mr. Francis will be a period of ineligibility of four years, in the event the IBSF will establish that the Anti-Doping Rule Violation was intentional.
20. According to article 3 of the Rules and relevant in this matter where the IBSF will have to establish that the ant-doping rule violation was intentional, the standard of proof shall be whether IBSF has established an Anti-Doping Rule Violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which 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.

## **II B. Definition of "Intentional"**

21. According to article 10.2.3 of The Rules the term "intentional" is meant to identify those Athletes who cheat. The term therefore requires that the Athlete or other Person engaged 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.
22. The IBSF Doping Panel did not receive any submission from Mr. Francis or explanation with regard to the Anti-Doping Rule Violation, nor did Bobsleigh CANADA Skeleton provide the IBSF Doping Panel with any information in this matter, even after the IBSF has extended the period of time in which Mr. Francis was requested to respond. The lack of responsiveness and seriousness in defending the matter at hand by Mr. Francis are held severely against Mr. Francis by the IBSF Doping Panel and did not give reason or possibility for the IBSF Doping Panel to come to another conclusion than that the Anti-Doping Rule Violation of Mr. Francis was intentional, resulting in a period of Ineligibility of four years.

## **II C. Commencement of the period of Ineligibility**

23. Article 10.11 of the Rules stipulates: "(...), the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed."

24. Since the ineligibility is imposed on Mr. Francis by means of this decision it will end 4 years after the date of this decision.

### **III Decision**

25. The AAF constitutes an Anti-Doping Rule Violation by Mr. Francis for which the IBSF Doping Panel sanctions Mr. Francis with a period of ineligibility of four years, during which period Mr. Francis is not entitled to participate in any competition or activity, as stipulated in article 10.12 of the Rules.

26. According to Article 10.8 of the Rules, all results obtained by Mr. Francis subsequent to the date of Sample collection until the start of the period of Ineligibility will be disqualified.

27. This decision shall be communicated by the IBSF to Mr. Francis and the Bobsleigh CANADA Skeleton.

### **IV COSTS**

28. The IBSF Doping Panel noted that no application was made by the IBSF in respect of costs. Therefore, each party shall bear its own costs.

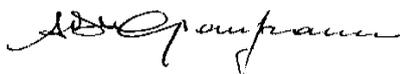
**IBSF Doping Panel, August 24 2017**



Dolf Segaar



Prof. Dr. Peter Hemmersbach



Dr. Alessia di Gianfrancesco