



Arbitration CAS 2015/A/3945 Sigfus Fosssdal v. International Powerlifting Federation (IPF), award of 9 July 2015

Panel: Mr Ken Lalo (Israel), Sole Arbitrator

Powerlifting

Doping (stanozolol)

New evidence

Source of the Prohibited Substance and burden of proof

Reduction of the period of ineligibility

1. Under Article R57.3 of the CAS Code, a CAS panel has discretion to exclude new evidence. However, where it is apparent that the athlete, despite notices, has not been fully versed with the proceedings before the first instance hearing body, the introduction of witness statements can be allowed and all available evidence fully considered.
2. Under the applicable regulations, a pre-condition for having the period of ineligibility either eliminated or reduced is that the athlete should establish how the prohibited substance entered his or her system. The burden of proof is on the athlete and this should be established on the balance of probabilities.
3. An athlete competing in high level international events should ensure that he does not consume unidentified or unverified products. An athlete who has been grossly negligent cannot benefit from an elimination or reduction of the mandatory standard ineligibility period.

I. THE PARTIES

- 1.1. Mr. Sigfus Fosssdal (the “Athlete”) is an international powerlifter who has participated in high-level competitions since 2003. The Athlete, an Icelandic national and a member of the Icelandic Powerlifting Federation, participated at the 2014 World Open Powerlifting Championships held in Aurora, Colorado, USA (the “Event”).
- 1.2. The International Powerlifting Federation (the “IPF”) is the recognized international governing body for the sport of powerlifting. It is a non-profit association registered in Luxemburg. The IPF is a non-Olympic international federation and a member of SportAccord. The IPF is a signatory to the World Anti-Doping Code of the World Anti-Doping Agency (“WADA”).

II. THE FACTS

- 2.1. On 8 November 2014, during the Event, the Athlete was selected for a doping control test. The Athlete listed three substances which he had used on the Declaration of Use form.
- 2.2. The analysis of the Athlete's urine was performed at the Laboratory for Doping Analysis - German Sports University Cologne, Germany (the "Laboratory"), a WADA-accredited laboratory.
- 2.3. On 1 December 2014, the Laboratory sent a Test Report to the IPF, indicating that the Athlete's "A" sample (the "A sample") evidenced an Adverse Analytical Finding since it contained a stanozolol metabolite, 3-hydroxystanozolol glucuronide, consistent with the administration of stanozolol, an anabolic steroid prohibited in and out of competition under the WADA Prohibited List, class S1.1.A. Exogenous AAS. This was not declared by the Athlete on the Declaration of Use form completed upon testing at the Event.
- 2.4. On 3 December 2014, the IPF informed the Athlete through his national federation in Iceland of the positive finding and provisionally suspended him from 4 December 2014. This notice advised the Athlete regarding his rights including the right to request that the Athlete's 'B' sample be analysed.
- 2.5. On 16 December 2014, the Athlete requested the opening of the Athlete's 'B' sample (the "B sample") for analysis.
- 2.6. The 'B' sample analysis report dated 19 December 2014 issued by the Laboratory confirmed the presence of the substance 3-hydroxystanozolol glucuronide, a stanozolol metabolite.
- 2.7. The Athlete through his national federation was informed of the results of the 'B' sample analysis and of the rule violation by a letter dated 19 December 2014. This letter advised the Athlete of his legal rights including the process leading to a documentary hearing before the IPF Doping Hearing Panel ("DHP").
- 2.8. On 19 January 2015, following the grant of several requests for extension, the Athlete filed his final defence submissions with the IPF, against the positive doping results.
- 2.9. The DHP considered the matter based on the written submissions and rendered its reasoned decision on 22 January 2015 (the "IPF Decision").
- 2.10. In its pertinent part the IPF Decision held that:
 - a. The Athlete had committed an anti-doping rule violation;
 - b. The Athlete shall be suspended for 2 years from participating in any Powerlifting competition/event, with the period of suspension starting on December 3, 2014 and running through December 4, 2016;
 - c. Any results earned by the Athlete since November 8 2014 shall be nullified.

- 2.11. It is from the IPF Decision that the Athlete appealed to the Court of Arbitration for Sport (the “CAS”).

III. PROCEEDINGS BEFORE THE CAS

- 3.1. On 16 February 2015, the Athlete filed his Statement of Appeal with the CAS against the IPF Decision, in accordance with Articles R47 *et seq.* of the Code of Sports-related Arbitration (2013 edition) (the “Code”).
- 3.2. On 18 February 2015, the Athlete, through counsel, sent an e-mail requesting that his appeal be referred to a sole arbitrator.
- 3.3. On 26 February 2015, the Athlete filed his Appeal Brief in accordance with Article R 51 of the Code.
- 3.4. On 2 March 2015, the CAS Court Office advised the parties regarding the proceedings in this matter and advised that, in accordance with the Athlete’s request, the matter shall be decided by a Sole Arbitrator unless the IPF timely objects.
- 3.5. On 16 March 2015, in the absence of any objection from the Respondent on the Appellant’s request, the parties were informed by the CAS Court Office that the President of the Appeals Arbitration Division decided to submit the present matter to a sole arbitrator. On 24 March 2015, having received no challenges to the appointment of Mr Ken E. Lalo as Sole Arbitrator by the President of the Appeals Arbitration Division, Mr. Ken E. Lalo’s appointment was confirmed, pursuant to Article R54 of the Code.
- 3.6. On 17 March 2015, the IPF filed its Answer in accordance with Article R55 of the Code. In its Answer, the IPF indicated that it “*favors that the matter proceed by way of documentary hearing*”.
- 3.7. On 18 March 2015, the CAS Court Office requested the Athlete’s confirmation that he agrees to have the matter decided without an oral hearing and based on the written submissions.
- 3.8. On 25 March 2015, the CAS Court Office notified the Athlete’s e-mail by which he reconfirmed his agreement to have the matter decided without an oral hearing and based on the written submissions.
- 3.9. On 26 May 2015, the CAS Court Office informed the parties that the Sole Arbitrator considers himself sufficiently well informed not to hold a hearing in this case in accordance with Article R57 of the Code.
- 3.10. On 1 June 2015, the CAS Court Office advised the parties that the Athlete has been granted Legal Aid with respect to the arbitration costs in this matter.

- 3.11. On 2 and 3 June 2015, the Athlete and the IPF, respectively, signed the Order of Procedure. Both parties expressly confirmed that their right to be heard has been respected.

IV. SUBMISSIONS OF THE PARTIES

- 4.1. Below is a summary of the main relevant facts and allegations based on the parties' written submissions and evidence. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by or on behalf of the parties in these proceedings, he refers in this Award only to the submissions and evidence which he considers necessary to explain his reasoning. The Sole Arbitrator, however, specifically notes that he has considered all the factual allegations, legal arguments, and evidence submitted by or on behalf of the parties in the present proceedings.

A. The Athlete

- 4.2. The Athlete's main arguments before the Sole Arbitrator are that the Athlete explained the source of the prohibited substance and that he bears no fault or negligence or no significant fault or negligence in connection with the consumption of the prohibited substance and that, therefore, the period of ineligibility ought to be eliminated or, at the very least, reduced. Additionally, the Athlete argues that the DHP did not properly consider the evidence and arguments made by the Athlete and that the IPF Decision erred in its assessment of the evidence.
- 4.3. More specifically, the Athlete asserts that:
- The Athlete has limited financial resources which made it difficult for him to properly present his case before the DHP and the CAS.
 - The Athlete has been using Amino Energy powder, which is a legal pre workout drink and is freely available, since 2009. During October 2014, he was visiting a college athlete, Mr. Jon Por Asgrimsson, and, since the Athlete did not bring with him the Amino Energy powder, he borrowed some from his friend's Amino Energy bulk jar and mixed it into his drink. He was not aware nor advised that this friend was using steroids which were mixed into that jar.
 - The DHP indicated in the IPF Decision that the Athlete was negligent in accepting medication from an unreliable source and in drinking from an open bottle while, in fact, the source of the substance was Mr. Asgrimsson, a reliable colleague and friend, and the Athlete has mixed the substance himself and has not drank from an open bottle.
 - Such evidence was readily available and, since Mr. Asgrimsson wanted to remain anonymous, it could have been corroborated by Mr. Birgir Sverrisson at Iceland's Anti-Doping, but Mr. Birgir Sverrisson has not been approached by the DHP.

- At issue is a Specified Substance and Article 10.4 of the IPF Anti-Doping Rules (November 2013) (the “IPF ADR”) should apply.
- The Athlete explained how the substance had entered its systems, which statement was or could have easily been corroborated and the sanction imposed on him should, therefore, be eliminated under Article 10.5.1 of the IPF ADR or, at the very least, reduced under Article 10.5.2 of the IPF ADR.
- The Athlete has not intentionally used any “*power enhancing substances*”.
- The Athlete has a clean history and has not consumed any prohibited substances in the past.

B. The IPF

- 4.4. The IPF claims that the evidence establishes that the Athlete was subject to an in-competition doping control on 8 November 2014 while at the Event, that a prohibited substance, an anabolic steroid which is a performance enhancing substance, was detected in the samples, and that it has neither been argued nor established by the Athlete that the testing of the Athlete and analysis of the samples have not been properly conducted.
- 4.5. The IPF argues that the proceedings before the DHP were fair, that the DHP has properly considered all of the evidence and that in the IPF Decision it has issued a clearly reasoned decision.
- 4.6. The IPF argues that the DHP in its IPF Decision has correctly stated and assessed the facts as these have been presented to it. It states that the Athlete has indicated before the DHP that he had drunk from an open bottle (“*Mr. Fossdal has no possibilities to ensure that his drink was sealed in any way*”) and that the DHP has correctly concluded that the Athlete “*had not discharged his responsibilities as an International level athlete*”.
- 4.7. The IPF argues that the Athlete received several extensions in which to present his case and had an ample opportunity to fully present the case before the DHP. His failure to present the statements of Mr. Asgrimsson and Mr. Sverisson cannot be cured by an invitation to the DHP to contact these individuals themselves. During the process before the DHP, Mr. Asgrimsson has not been named as he apparently wanted to remain unidentified. Without his statement the whole story presented by the Athlete relied solely on the Athlete’s uncorroborated testimony. Finally, the Athlete received two notices which have fully explained the legal procedure before the DHP to the Athlete.
- 4.8. The IPF acknowledges that CAS has the right to hear and consider the matter *de novo*. However, the IPF suggests that the Sole Arbitrator should not give weight to the new submissions, the statements of Mr. Asgrimsson and Mr. Sverisson, because:
 - The statement of Mr. Sverisson adds little value as he merely states that he had spoken with Mr. Asgrimsson, but provides no details as to the content of the discussion nor to Mr. Asgrimsson credibility;

- Mr. Asgrimsson's statement is neither in the form of an affidavit nor sworn;
- It is unclear why such a statement has not been timely provided to the DHP and why Mr. Asgrimsson's identity was not divulged;
- It is interesting to note that in his new statement, Mr. Asgrimsson addresses all of the points on which the DHP relied in deciding against the Athlete and that this should question the credibility of such new evidence;
- The newly submitted statement of Mr. Asgrimsson modifies in some critical points the Athlete's statement submitted to the DHP;
- The credibility and reliability of Mr. Asgrimsson's statement must be questioned as it is not sworn, Mr. Asgrimsson is not designated as a witness, it differs on key points from the Athlete's original testimony and it addresses the specific points on which the DHP had relied in the IPF Decision;
- Mr. Asgrimsson's statement should be disregarded or excluded as being "*unreliable, if not fabricated*".

4.9. The IPF further argues that Mr. Asgrimsson's statement "*was available to the Appellant or could reasonably have been discovered by the Appellant before the challenged decision was rendered*" and the Sole Arbitrator should, therefore, exclude such evidence under Article R57 of the Code.

4.10. The IPF argues that even with the new evidence submitted by the Athlete, he has not met his burden of proof under Article 3.1 of the IPF ADP. The Athlete bears the burden to prove how the prohibited substance entered his systems. The IPF claims that where there are several options as to how a prohibited substance entered the athlete's systems, one should choose the most credible explanation. In the present case, the IPF argues that there are only two possibilities: that the Athlete had knowingly used the prohibited substance in order to enhance his performance or the story presented by the Athlete (that the Athlete "*was inadvertently sabotaged by his friend when he used a scoop from an Amino acid supplement jar (not packet), which was laced with crushed Stanozolol tablets, to add to his own beverage*") which is in the opinion of the IPF not credible.

4.11. The IPF claims that the Athlete's scenario is not credible because:

- It is not supported by any evidence in addition to the Athlete's statement and the unsworn statement of Mr. Asgrimsson which has been challenged by the IPF as not credible;
- It is unlikely that an undetermined "*yet presumably small*" quantity of crushed Winstrol powder mixed with amino powder could have been the only source of the prohibited substance found in the Athlete's samples;
- It is hard to comprehend why Mr. Asgrimsson would crush Winstrol pills into a powder and mix it with a drink rather than swallow them whole, as these steroids are rather expensive and in a powder form there is more risk that some may be wasted;
- Ingesting Winstrol by crushing it into another powder to be diluted in a liquid is very unusual "*and almost unheard of*" and this should be explained by Dr. James Lally (an

Osteopathic Medical Doctor and President & Chief Medical Officer of Prime HealthCare Services, Inc., Chino Valley Medical Center, California);

- There was no evidence by the Athlete or anyone on his behalf regarding the quantities consumed.
- 4.12. The IPF further argues that Article 10.4 of the IPF ADP has no bearing on this case since it applies only when a Specified Substance is involved and Stanozolol is not a Specified Substance.
- 4.13. The IPF argues that Articles 10.5.1 and 10.5.2 of the IPF ADP do not apply to this case since such “*leniency provisions*” have a “*restrictive nature*” and are “*are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases*”.
- 4.14. The IPF states that Stanozolol is a well-known anabolic steroid regularly used in all strength and bodybuilding sports and could have been most beneficial to the Athlete in trainings and competitions and the Athlete has failed to show on the balance of probabilities that he did not intend to enhance his performance by using Stanozolol. The IPF cites CAS 2007/A/1395 *WADA v. NSAM et al.* at paragraph 78 in which it was stated that the athlete must do more than to merely “*bring forward or contend. Rather ...the athlete must convince the sanctioning authority – to a certain degree – of the inner fact, namely that he did not intend to enhance his performance*”. The IPF contends that the Athlete in the present case has not provided evidence to convince of that “*inner fact*”.
- 4.15. The IPF highlights the principle of strict liability which is a cornerstone in the fight against drug use in sport and the fact that the Athlete must be made accountable for any prohibited substance found in his body.
4. 16. The IPF then continues to argue – in an effort to support the position that the Athlete was at the very least negligent and Articles 10.5.1 and 10.5.2 of the IPF ADP should not apply to this case – that:
- The Athlete should have known that his friend, Mr. Asgrimsson, was using steroids and should have avoided using any powders or drinks offered by Mr. Asgrimsson;
 - Crushed Winstrol pills would not have the same colour or consistency as Amino powder which the Athlete used regularly and should have been familiar with;
 - The Athlete was negligent in using a powder from an open jar without verifying its contents;
 - The amino powder jar states that it is not approved by the FDA and this should have been a warning sign to the Athlete;
 - The Athlete used amino acid powder which “*was in an open jar in his steroid-using-friend’s gym bag*”.
- 4.17. The IPF cites CAS 2005/C/976 & 986, 21 April 2006, at paragraph 73 in which the CAS panel explained that “*The WADC imposes on the athlete a duty of utmost caution to avoid that a prohibited*

substance enters his or her body.... The Panel underlines that this standard is rigorous, and must be rigorous, especially in the interest of all other competitors in a fair competition...”.

- 4.18. The IPF concludes that the IPF decision imposing the two-year period of ineligibility must be upheld. The IPF also requests that the Athlete bears all of the arbitration costs and the IPF legal fees and costs incurred in connection with the proceedings before CAS.

V. CAS JURISDICTION AND ADMISSIBILITY

- 5.1. The jurisdiction of the CAS is based on Article R47 of the Code and on Article 13.2.1 of the IPF ADP.

Article R47 of the Code reads as follows:

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

Article 13.2.1 of the IPF ADP reads as follows:

*“13.2.1 Appeals Involving International-Level Athletes
In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court”.*

- 5.2. The jurisdiction of the CAS and the admissibility of the Appeal were not contested by the IPF, and the parties signed the Order of Procedure confirming CAS jurisdiction without objection.
- 5.3. The appeal was timely filed on 16 February 2015, within twenty-one days of the receipt of the IPF Decision by the Athlete, in accordance with Article 13.6 of the IPF ADP, which reads as follows:

“13.6 Time for Filing Appeals

The time to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party...”.

- 5.4. The IPF accepted that the Athlete has timely lodged its Statement of Appeal with CAS.
- 5.5. It follows that the CAS has jurisdiction to decide the present case and that the case is admissible.

VI. APPLICABLE LAW

- 6.1. In the present matter, the Athlete argues its case based on the IPF ADP. The IPF has accepted the application of these rules. The IPF is registered in Luxemburg and since the parties have

neither agreed on the application of any other law nor argued such application, Luxembourg law applies subsidiarily under Article R58 or the Code.

6.2. Article R58 of the Code reads 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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

6.3. Therefore, the Sole Arbitrator confirms that the IPF ADP apply to and govern this case, with Luxembourg law in subsidiary.

VII. MERITS

A. Scope of Review

7.1. According to Article R57 of the Code, the Sole Arbitrator has the full power to review the facts and the law of the case; namely, the power to rule *de novo*. However, the Sole Arbitrator accepts the IPF contention that such scope of review *“is not only confined by Art. 57 CAS Code, but also by the matter of the dispute. The latter is defined – in the first place – by the requests of the parties filed in their respective Statement of Appeal and Answer to the Brief”* (CAS 2011/2612, par. 51-52).

B. The Anti-Doping Violation

7.2. It is undisputed between the parties that:

- The Athlete was subject to an anti-doping control on 8 November 2014 at the Event;
- The samples were tested by the Laboratory, which was at all relevant times a WADA-accredited laboratory;
- Both the 'A' and the 'B' samples tested positive for stanozolol, a prohibited substance referred on the WADA Prohibited List as a substance which is prohibited both in and out of competition.

7.3. The Athlete has not raised issues relating to the doping control itself and he has not claimed that there had been a departure from the International Standard for Testing.

7.4. The Athlete did not question the chain of custody over the samples.

7.5. The Laboratory report confirmed that the sample analysis was performed correctly. This is further supported by the presumption in Article 3.2.1 IPF ADP, which reads: *“WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing*

that a departure from the International Standard occurred which could reasonable have caused the Adverse Analytical Finding". The Athlete has not made any claim to rebut this presumption.

7.6. The Athlete does not claim that the samples were not of his bodily fluids. He also does not claim that the samples might have been degraded or altered and there is no indication that the samples were not in good condition at the times of the analyses. The Sole Arbitrator therefore concludes that the results generated by the Laboratory are unequivocally linked to the Athlete.

7.7. The Sole Arbitrator, therefore, accepts that there was a proper finding of an anti-doping rule violation under Article 2.1 IPF ADP, which reads in its pertinent part as follows:

"2.1.1 It is each Athlete's personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping violation under Article 2.1.

2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established bypresence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Samplewhere the Athlete's B Sample is analysed and the analysis of the Athlete's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete's A Sample".

7.8. The Athlete did not argue that he had not been granted an opportunity to fully present his case or that the proceedings before the DHP had not been fair. In any event, pursuant to CAS constant jurisprudence, the appeal to the CAS cures any procedural defects in the proceedings below.

C. The "Mistakes" Made in the DHP Assessment of the Evidence

7.9. The Athlete argues that the DHP did not properly consider the evidence and arguments made by the Athlete and that the IPF Decision erred in its assessment of the evidence. More particularly, the Athlete argues that the DHP indicated in its decision that the Athlete was negligent in accepting medication from an unreliable source and in drinking from an open bottle while, in fact, the source of the substance was Mr. Asgrimsson, a reliable colleague and friend, and the Athlete had mixed the substance himself (using powder provided in a jar by Mr. Asgrimsson) and had not drank from an open bottle.

7.10. The Sole Arbitrator highlights that the DHP has properly relied on the Athlete's testimony which was the only evidence presented by the Athlete before the DHP. Mr. Asgrimsson's new statement presented for the first time to CAS differs to a certain extent from a simple reading of the Athlete's arguments before the DHP and, therefore, the Athlete cannot now use newly submitted evidence in order to state that the DHP decision deviated from presented evidence.

7.11. In any event the Sole Arbitrator has the power to rule *de novo* and, therefore, the Athlete is not precluded from fully presenting his case before the Sole Arbitrator.

D. Should the Athlete's New Evidence be Admitted

- 7.12. The IPF argues that Mr. Asgrimsson's statement "*was available to the Appellant or could reasonably have been discovered by the Appellant before the challenged decision was rendered*" and that the Sole Arbitrator should therefore exclude such evidence under Article R57 of the Code.
- 7.13. The Sole Arbitrator accepts that Mr. Sverisson and Mr. Asgrimsson's statements could reasonably have been discovered by the Athlete before the IPF Decision. The Athlete referred to their content and the reason that Mr. Asgrimsson preferred at the time not to be identified is not a proper reason for failure to timely present all relevant evidence before the hearing body.
- 7.14. The Sole Arbitrator notes that he has discretion to exclude such evidence under Article R57 of the Code. However, the Sole Arbitrator would allow the introduction of Mr. Asgrimsson and Mr. Sverisson statements since it is apparent that the Athlete, despite notices, has not been fully versed with the proceedings before the DHP and the Sole Arbitrator should fully consider all available evidence.

E. Article 10.4 of the IPF ADP

- 7.15. The Sole Arbitrator concludes that Article 10.4 of the IPF ADP has no bearing on this case since it applies only when a Specified Substance is involved and stanozolol is not a Specified Substance according to Article 4.2.2 IPF ADP, and, therefore, not subject to a possible elimination or reduction of the period of ineligibility under Article 10.4 IPF ADP. The Athlete's arguments on this point are ill-founded.

F. Elimination or Reduction of the Period of Ineligibility – Establishing how the Prohibited Substance had entered the Athlete's Systems

- 7.16. A pre-condition to benefiting from the provisions of Articles 10.5.1 or 10.5.2 of the IPF ADP and having the period of ineligibility either eliminated or reduced is that the Athlete should "*establish how the prohibited substance entered his or her system*". The burden of proof is on the Athlete and this should be established on the balance of probabilities.
- 7.17. The IPF claims that the Athlete has not met this burden. Before the DHP, the Athlete's testimony was uncorroborated. The IPF suggests that the Sole Arbitrator should not give weight to the new submissions made before CAS, the statements of Mr. Asgrimsson and Mr. Sverisson, as the statement of Mr. Sverisson adds little value and the statement of Mr. Asgrimsson is not sworn and is neither credible nor reliable. The IPF argues that on the balance of probabilities it is still more likely that the Athlete knowingly consumed the prohibited substance than that a crushed Winstrol pill mixed into a jar of amino powder was mixed into a drink and consumed by the Athlete while exercising at Mr. Asgrimsson's house shortly before the Event.

- 7.18. The Sole Arbitrator concludes that, while the DHP has correctly ruled on this point and found the Athlete's evidence before the DHP to be "*unsubstantiated and uncorroborated*", the new statements provided by the Athlete in this Appeal are sufficient to establish, on the balance of probabilities, how the prohibited substance entered the Athlete's systems. The statement of Mr. Sverisson indicates that at least the identity of Mr. Asgrimsson was known when the Athlete has presented his case to the DHP. Variations between the Athlete's original statement and Mr. Asgrimsson statement may question the exact method of consumption and the level of negligence but the overall story remains a similar one.
- 7.19. The Sole Arbitrator therefore concludes that the precondition of the application of either Article 10.5.1 or Article 10.5.2 of the IPF ADP – namely, establishing how the prohibited substance had entered the Athlete's systems – has been met.

G. Elimination of the Period of Ineligibility

- 7.20. The Sole Arbitrator concludes that the Athlete cannot benefit from Article 10.5.1 and have the period of ineligibility completely eliminated. It is clear that the Athlete was – at the very least – negligent in consuming the prohibited substance and that his actions do not qualify as having no fault or negligence. Even the Athlete has confirmed it its Appeal Brief *that "he does not acknowledge any fault beyond carelessness"* and that his actions "*demonstrate no significant fault or negligence*".

H. Reduction of the Period of Ineligibility

- 7.21. The Athlete's remaining argument is that the period of ineligibility should be reduced as the consumption of the amino powder provided by a colleague athlete which, unbeknown to the Athlete, contained the prohibited substance, does not amount to significant fault or negligence, thus allowing the Athlete to benefit from the application of Article 10.5.2 of the IPF ADP which states:

"10.5.2 No Significant Fault or Negligence

If an Athlete or other Person establishes in an individual case that he bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable.... When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete's Sample in violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers), the Athlete must establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility reduced".

- 7.22. As the comment to Article 10.5.2 of the IPF ADP specifically states, this Article and the reduction of the period of ineligibility is "*meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases*".

- 7.23. Under Article 2.1.1 of the IPF ADP *“It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples”*.
- 7.24. The Sole Arbitrator finds that the Athlete was grossly negligent in using powder of an apparent supplement from an open jar supplied by a colleague athlete without verifying its contents in any way. The Athlete competed in high level international events and should have taken very basic steps to ensure that he does not consume unidentified or unverified products. Even if the Athlete did not know that his friend, Mr. Asgrimsson, was using steroids, he should have avoided using a supplement which had not been obtained by himself from a reliable source and which was open.
- 7.25. The Sole Arbitrator accepts that this is the very first violation by the Athlete and that he has shown remorse and declared *“that he will work fully with the Icelandic Powerlifting Federation to educate young people about the dangers of doping in sports”*, but these do not constitute reasons for a reduction in the period of ineligibility under the applicable rules.
- 7.26. Under Article 10.2 of the IPF ADP, the period of ineligibility imposed for a first anti-doping rule violation under Article 2.1 IPF ADP shall be two years and the Sole Arbitrator finds no circumstances justifying the reduction or elimination of this mandatory standard two year period.
- 7.27. The DHP properly gave the Athlete credit for such period of provisional suspension such that his suspension began on 3 December 2014.
- 7.28. For these reasons the Sole Arbitrator dismisses the Appeal and confirms the IPF Decision, imposing a two-year period of ineligibility on the Athlete as of 3 December 2014 and ending on 4 December 2016.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed on 16 February 2015 by Mr. Sigfus Fossdal against the decision of the IPF Doping Hearing Panel rendered on 22 January 2015 is dismissed.
2. The decision of the IPF Doping Hearing Panel rendered on 22 January 2015 is confirmed.
- (...)
5. All other motions or prayers for relief are dismissed.