

AMERICAN ARBITRATION ASSOCIATION
Commercial Arbitration Tribunal

In the matter of the Arbitration between

THE UNITED STATES ANTI-DOPING)
AGENCY,)

Claimant)

And)

JENNA BLANDFORD,)

Respondent.)

AAA No. 01-17-0002-9207

AWARD

Pursuant to the American Arbitration Association's (AAA) Commercial Arbitration Rules as modified by the American Arbitration Association Supplementary Procedures for the Arbitration of Olympic Sport Doping Disputes as contained in the Protocol for Olympic and Paralympic Movement Testing Effective as revised January 1, 2015, and pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 USC 22501, *et seq.* (the Act), an in person evidentiary hearing was held in Louisville, Kentucky on October 30, 2017, before David M. Benck (the "Arbitrator") with Claimant and Respondent's legal counsel in attendance. By order of the Arbitrator after considering the views, submissions, arguments, and evidence of the parties, the Arbitrator does hereby AWARD as follows:

I. THE PARTIES

1. Claimant, the United States Anti-Doping Agency ("USADA"), as the independent anti-doping agency for Olympic Sports in the United States, is responsible for conducting drug testing and for adjudication of any positive test results and other anti-doping violations pursuant to the USADA Protocol. USADA, as the National Anti-Doping Organization is required by World Anti-Doping Code (WADA Code) §20.5.7, "to vigorously pursue all potential anti-doping rule violations within its jurisdiction" William Bock, Esq., of the law firm Kroger, Gardis and Regas, serving as the General Counsel of USADA, acted as USADA's representative, appeared and represented USADA with Jeffrey T. Cook, Director of Legal Affairs for USADA.
2. Respondent is an elite-level cyclist who has raced at an elite level since at least 2014, and competed in triathlons beginning in 2009. Her competition history reflects that she competed in 13 races in 2013, 22 races in 2014, 25 races in 2015, and 31 races in 2016. She is a sponsored athlete who won a national title at the Marathon Mountain Bike Nationals on June 4, 2016.

II. JURISDICTION AND APPLICABLE LAW

A. Jurisdiction

3. The Arbitrator has jurisdiction over this dispute pursuant to the Act §220522 because this is a controversy involving Respondent's opportunity to participate in national and international competition. The Act states, in relevant part, that:

An amateur sports organization is eligible to be recognized, or to continue to be recognized, as a national governing body only if it-(4) agrees to submit to binding arbitration in any controversy involving—

(B) the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, upon demand of the corporation or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified and provided for in the corporation's constitution and bylaws....

4. Under its authority to recognize a sport national governing body (NGB), the United States Olympic Committee ("USOC") established the USOC National Anti-Doping Policy, the current version of which is effective as of January 1, 2015 (the USOC Policy), which, in relevant part, provides:

NGBs .. shall comply with this Policy and shall adhere, in all respects, to the applicable provisions of the Code, the International Standards adopted by [the World Anti-Doping Agency (WADA)] and the... USADA Protocol. NGBs ... shall not have any anti-doping rule which is inconsistent with this Policy, the Code, the International Standards adopted by WADA or the USADA Protocol. (Section 4.1).

5. Regarding Respondent, the USOC Policy provides:

... each NGB ... shall be responsible for informing Athletes, Athlete Support Personnel and other Persons in its sport of this USOC National Anti-Doping Policy and of the USADA Protocol. Id. at Section 14.1.

All Athletes, Athlete Support Personnel and other Persons, by virtue of their membership in an NGB, ..., participation in the Olympic, ... Pan American Games ..., participation in an Event or Competition organized or sanctioned by an NGB, ... participation on a national team, utilization of a USOC Training Center, receipt of benefits from the USOC, an NGB, ... inclusion in the RTP, or otherwise subject to the Code agree to be bound by this Policy and by the USADA Protocol. [Section 14.2]

6. In compliance with the Act, Article 17(a) of the USADA Protocol, provides that hearings

regarding doping disputes "will take place in the United States before the American Arbitration Association ("AAA") using the [USADA Protocol]."

7. Both parties voluntarily submitted to the jurisdiction of the Arbitrator. Neither party disputed the Arbitrator's jurisdiction, and in fact, both parties consented to it and participated in these proceedings without objection. Accordingly, jurisdiction is proper here.

B. Applicable Law

8. The parties have stipulated "that the USADA Protocol for Olympic and Paralympic Movement Testing ("Protocol") governs all proceedings involving Ms. Blandford's alleged anti-doping rule violations for the relevant period," and further "that the mandatory provisions of the World Anti-Doping Code (the "Code") including, but not limited to, the definitions of doping, burdens of proof, Classes of Prohibited Substances and Prohibited Methods, sanctions, the Protocol, the International Cycling Union ("UCI") Anti-Doping Rules, the International Triathlon Union ("ITU") Anti-Doping Rules, and the United States Olympic Committee ("USOC") National Anti-Doping Policies are applicable to any matter involving Ms. Blandford's alleged anti-doping rule violations during the relevant period."

9. Respondent's application to become a member of USA Cycling provided in part that:

I understand and agree that the UCI Anti-Doping Rules and U.S. Anti-Doping Agency (USADA) Protocol apply to me and that it is my responsibility to comply with those rules. I agree to submit to drug testing and understand that the use of methods or substances prohibited by the applicable anti-doping rules would make me subject to penalties including, but not limited to, disqualification and suspension. If it is determined that I may have committed a doping violation, I agree to submit to the results management authority and process of USADA, including arbitration under the USADA Protocol, or to the results management authority of the UCI and/or my national federation, if referred by USADA.

10. The applicable and relevant rules under the WADA Code which are consistent and analogous to the UCI Anti-Doping Rules ("UCI ADR"), provide:

Article 2. The following constitute Anti-Doping Policy Violations:

* * *

2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

2.2.1 It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body and that no *Prohibited Method* is *Used*.

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 rule violation for *Use* of a *Prohibited Substance* or a *Prohibited Method*.

2.2.2 The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.

[Comment to Article 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1.]

* * *

2.6 Possession of a Prohibited Substance or a Prohibited Method

2.6.1 Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption ("TUE") granted in accordance with Article 4.4 or other acceptable justification.

* * *

3.1 Burdens and Standard of Proof

The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the Anti-Doping Organization 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. Where the Code places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of

probability.

* * *

10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5, or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional;

10.2.1.2 The anti-doping rule violation involves a Specified Substance and the Anti-Doping Organization can establish that the anti-doping rule violation was intentional.

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

* * *

10.11 Commencement of Ineligibility Period

Except as provided below, 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.

10.11.1 Delays Not Attributable to the Athlete or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Athlete or other Person, the body imposing the sanction may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of Ineligibility, including retroactive Ineligibility, shall be Disqualified.

* * *

21.1 Roles and Responsibilities of Athletes

21.1.6 To cooperate with Anti-Doping Organizations investigating anti-doping rule violations.

UCI ADR 21.1.7 adds to the Code:

To report to *Anti-Doping Organizations* any circumstances they become aware of that may constitute an anti-doping rule violation.

[WADA Code Comment to Article 21.1.6 provides a Failure to cooperate is not an anti-doping rule violation under the Code, but it may be the basis for disciplinary action under a stakeholder's rules. However, UCI ADR Code omits this provision, and only provides that the failure of Rider Support Personnel, under Article 21.2.6, to cooperate is not an anti-doping rule violation under the Code, but it may be the basis for disciplinary action under a stakeholder's rules]

* * *

III. FACTUAL BACKGROUND/ PROCEDURAL HISTORY

A. Factual Background

11. While the Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, only the submissions and evidence considered necessary to explain the Arbitrator's reasoning are referred to in this Award.
12. She became a member of USA Cycling in 2013, and through this membership, the Respondent has been aware of her anti-doping responsibilities. Her membership agreement required she acknowledge that the Union Cycliste Internationale ("UCI") Anti-Doping Rules and the USADA Protocol applied to her and that she understood the use of prohibited substances would subject her to penalties.
13. USA Cycling has been sending its members monthly updates about the RaceClean program, which the Respondent appears to have received. For example, in March 2016, USA Cycling records show that the RaceClean update email sent to Respondent was opened which explained the program and provided the Respondent with references to various USADA resources.
14. Respondent's ex-boyfriend, Jeff Miller, who was also a USA Cycling member and the Respondent's coach from 2012 through 2014, reported to USADA in late 2016 that both he and the Respondent had used prohibited performance enhancing substances.
15. Miller admitted that he used prohibited substances from early 2015 through 2016, starting with testosterone, which he obtained at a local pharmacy, and moving on to human growth hormone (HGH) and oxandrolone. Based on his admissions, Miller signed a four-year sanction agreement as well as a cooperation agreement with USADA. Pursuant to his agreement to cooperate, Miller was obliged to provide "truthful, complete, and accurate information and testimony" regarding "any doping offenses or doping-related activity by himself and others of which he has knowledge."

16. Miller testified that the Respondent, who was living with him, observed him using testosterone and began using testosterone herself. Miller testified during the hearing that Respondent began using testosterone in “winter of 2015”, while later clarifying that she began using testosterone in “August of 2015.”
17. By the end of 2015, the Respondent renewed her membership with USA Cycling and obtained an international racing license, which she had purchased for the first time the year before. Her international license allowed her to enter UCI sanctioned events, at which professional cyclists from around the world compete at the highest level. She then went on to compete in 31 races in 2016, including several UCI events.
18. Miller testified that in December 2015, however, Respondent stopped using testosterone because she noticed her voice begin to change. Miller testified that the Respondent switched to human growth hormone and oxandrolone in early 2016, and that Miller continued to purchase these substances over the Internet for Respondent’s use.
19. Miller testified that the human growth hormone, like the testosterone, was injectable, meaning the Respondent used syringes and distilled water that was stored in the refrigerator to inject herself with the substances. The oxandrolone came in pill form, which he claimed she took almost every day.
20. A text message exchange from May 4, 2016 between Miller’s phone and Respondent’s phone provided as follows:

Miller’s Phone: “Can you bring me my hgh and 2 of your pills. I’ll give you 2 back from my supply”

Respondent’s Phone: “Sure. I’ll let you know when I’m headed your way.”

Respondent’s Phone: “Your bottle barely has anything in it. Do you still want me to bring it or just bring the pills?”

Miller’s Phone: “Both”

Respondent’s Phone: “Okay”

Respondent’s Phone:

An image of what appears to be a nearly empty vial of Soma Max-10 being held between the thumb and forefinger of the message sender was sent

The image was followed by the text:

“That’s what’s left. I’ll be there a little after 11”

21. According to Miller’s testimony, the Respondent continued using human growth hormone through October 2016 and used oxandrolone through August 2016.
22. That fall, the relationship between Miller and the Respondent deteriorated. During the contentious break-up, Miller told the Respondent that he was going to report her use of

prohibited substances to USADA.

23. Respondent testified that she changed the password on her phone in early October 2016 to a six-digit security code because she was concerned that Miller might access her phone.
24. On November 3, 2016, Respondent caught Miller attempting to read texts on Respondent's Apple Watch. He held the watch over his head refusing to return it to Respondent. The altercation became physical.
25. The next day, on November 4, 2016, a series of texts were exchanged that purportedly show Respondent making admissions of anti-doping violations.
26. The important excerpts from the November 4, 2016 texts include the following exchange:

Miller's Phone: "Also you need to decide if you are going to to continue with your HGH program. Without it at you will see a big drop in strength/repair processes and performance. I don't know what your plan for rest of season however I just know that will be a side effect when discontinuing.

Respondent's Phone: Yes, but you have used that as a threat against me so I don't feel like it's wise to continue. If I can't do it on my own then I'm not at that level anyway

Miller's Phone: Ok you call. It doesn't matter to me. Also doesn't matter when you took performance enhancing drugs at all. Lance got in trouble 10 years after the fact. So when you took them is not the issue for WADA or USADA it's that they were taken.

Respondent's Phone: I know, but I feel like I should see what happens without. Plus we have no way of knowing how legit that stuff was or if it really worked since it wasn't prescribed by a doctor or anything

Miller's Phone: It was direct from the pharmacy. No hgh is prescribed by a doctor Jenna. Unless you have a need for it. That's y athletes use it to enhance performance. It's your call. However don't be surprised or upset if your performances go backwards for a bit. I can just throw it away if you want me to. It's your call.

So don't fool yourself in to believing it wasn't a legit product goofball. That is silly.

Respondent's Phone: Well I definitely wouldn't throw it away. It's expensive and you can still use it.

Miller's Phone:

I'll throw it out if you aren't going to use it. It was for you. You have used it along with the Testosterone and look at how your body has changed and your strength has increased. So we know for a fact it helped you get to this level. I don't want it. It's your call. If you don't then trash it will go

I'll be home later today. I can just gather everything up and let you throw it Away. No skin off my teeth. It was purchased for you.

Respondent's Phone:

I know. I'll figure it out."

27. USADA's expert testified that the texts were authentic in that the texts came from Respondent's device. Respondent, however, denied being the person who actually sent the texts from her device.
28. Respondent could only provide conjecture as to how the texts could have been sent from her phone. The Respondent hypothesizes that perhaps she left her phone out on November 4, 2016 (the day after she caught Miller with her Apple Watch), and that Miller discovered her new six-digit password, engaged in the above texting exchange with himself, and then deleted the exchange from her phone, so that the next time she checked her phone, there would be no indication of the fabricated exchange.
29. A November 9, 2016 email between Respondent and her mother indicate that she was concerned about "the doping thing" and Miller's threats to report her to USADA.
30. On November 11, 2016, Respondent received approval for an apartment with a move-in date of Monday, November 14, 2016. Knowing this would result in Miller following through on his threat to report her to USADA, Respondent sent a preemptive message to USADA's Athlete Express sharing her concern in advance of Miller's report. In her email she states "I am in the middle of a messy breakup and my S.O. is threatening to accuse me of taking banned substances to cause me to lose my license. Obviously I would pass a drug test with no problem, as I don't take any illegal substances, but he says all he has to do is accuse me and that I will be suspended. Can someone really be suspended based on here say? I don't really know what to do to protect myself at this point. I would appreciate information on what will happen if someone accuses someone of doping and how long an investigation takes."
31. By Saturday November 12, 2016, Miller knew Respondent was leaving him. Respondent testified that after issuing another threat to "remember what I said about USADA," Miller let her leave the house. He told her that her "life is over" and that he was "calling USADA." He told her that he would be sure that "everyone will think you use drugs."
32. On November 15, 2016, Miller reported Respondent to the USADA Play Clean Tip Center. As part of his subsequent cooperation with USADA, Miller provided USADA with the following physical evidence:

- a. Five used syringes in an unsealed bag.
 - b. Two possibly used syringes in an unsealed bag.
 - c. Two opened vials of Soma Max-10 with human growth hormone.
 - d. One opened vial of Soma Max -10 with human growth hormone.
 - e. One sealed vial of Soma Max-10 with white powder that human growth hormone.
 - f. One opened bottle of Bacteriostatic water.
 - g. One opened bottle of Biotech Pharmaclinico Oxavar containing Oxandrolone.
 - h. Numerous receipts reflecting his purchases of prohibited substances.
33. In an interview with USADA on December 2, 2016, the Respondent acknowledged that Miller suggested that she use prohibited substances, but she denied ever using them.
34. On December 3, 2016, Respondent submitted for out of competition drug testing.
35. In follow-up interviews on January 17, 2017 and February 10, 2017, the Respondent repeatedly agreed to provide a DNA sample so that the syringes that Miller provided to USADA could be tested for the presence, or absence of her DNA.
36. In subsequent text interactions on January 22, 2017, with Miller, the Respondent complained to Miller: "Why would you take away the one thing I love? Why? Why?" And a few days later, the Respondent asked: "How am I supposed to prove anything? You have apparently given them all kinds of stuff" ... "I'm sure I'll be suspended."
37. About a month later Miller asked the Respondent how the USADA investigation had impacted her racing, speculating, "I figured nothing was happening and that you were off to the races." The Respondent replied: "Nope. Totally getting suspended I'm sure."
38. On February 13, 2017, USADA informed Respondent that her December 3, 2016 drug tests "do not indicate the presence of any prohibited substance and/or method." Notwithstanding, USADA's expert testified that by December 3, 2016, the date of the drug testing, the subject drugs would not likely be detected if she had quit taking the substances by early November.
39. As the racing season began in 2017, despite telling USADA that she "will not be racing at all while this is going on" as it was "not a priority at this time," the Respondent continued her competition schedule. Her achievements thus far this year include four first place finishes on short track mountain bike races in Louisville, a fourth place finish at the Lumberjack 100 in Michigan on June 17, 2017, an eighth place finish at the 60-mile ORAMM mountain bike race in North Carolina on July 30, 2017, a third place finish at the 70-mile Pisgah Monster Cross Challenge in North Carolina on September 9, 2017, and a third place finish at the Fool's Gold 46-mile mountain bike race in Ellijay, Georgia on September 16, 2017.

B. Procedural History

40. Respondent was first contacted about her possession and use of prohibited substances on December 2, 2016, by USADA's Chief Investigative Officer Victor Burgos.

41. Respondent denied using any prohibited substances, but subsequently agreed to provide a DNA sample to compare her DNA to the syringes produced by Miller. After numerous attempts to obtain her DNA to no avail, USADA sent Respondent a notice letter on March 8, 2017. This notice letter outlined the alleged violations and evidence substantiating the allegations, including text messages, photos, and receipts.
42. On March 8, 2017, Respondent was formally provided notice of alleged anti-doping rule violations. Respondent was accused of:

“...At a minimum, you have committed, and USADA is charging you with having committed, one or more of the following anti-doping rule violations:

 1. Use and Attempted Use of testosterone, human growth hormone, and oxandrolone.
The use or attempted use of a Prohibited Substance and/or Method is an anti-doping rule violation under the USADA Protocol and the UCI ADR, ITU ADR, all of which have adopted the Code.
 2. Possession of testosterone, human growth hormone and oxandrolone.
As an athlete you have a duty not to possess any prohibited substance. On information and belief, you have possessed testosterone, human growth hormone, and oxandrolone. To the extent that you have possessed testosterone, human growth hormone, and oxandrolone during any time as an athlete you have violated the prohibition against the possession of a prohibited substance.”
43. The Respondent asked for and was granted a two-week extension to respond to the notice letter, pushing the deadline to make submissions to the Anti-Doping Review Board to March 31, 2017.
44. Despite requesting the extension, the Respondent did not make any submissions to the Anti-Doping Review Board, and once the Anti-Doping Review Board agreed the case should proceed, USADA sent the Respondent a charging letter on May 5, 2017.
45. USADA charged the Respondent with Use (and Attempted Use) and Possession of testosterone, human growth hormone and oxandrolone.
46. The Respondent requested a hearing on May 15, 2017. On May 17, 2017, USADA opened these proceedings with the American Arbitration Association.
47. The Respondent’s counsel entered her appearance on June 1, 2017, and Arbitrator David Benck was confirmed on June 19, 2017.
48. A preliminary hearing was held on July 10, 2017, during which a discovery and briefing schedule were set and the hearing was scheduled for October 30, 2017, in Louisville, Kentucky.
49. The Arbitrator accepted sworn testimony from numerous witnesses and extensive exhibits, considered all the facts, allegations, legal arguments and evidence submitted by

the parties during the hearing.

III. ANALYSIS

A. Did Respondent Possess or Use Prohibited, Performance Enhancing Substances.

USADA shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether USADA 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.

The Arbitrator did not find Respondent's former boyfriend, Jeff Miller, to be credible. Standing alone, Miller's testimony would certainly be inadequate to comfortably satisfy the Arbitrator. It is the opinion of the Arbitrator that Miller reported Respondent out of spite three days after she left him, despite his testimony that he reported her because he regretted that "we were cheating our friends."

Notwithstanding, Miller did provide corroborating evidence to support his claims, including:

- Receipts for the purchase of prohibited substances,
- Actual remaining supply of HGH, oxandrolone, and syringes, (the laboratory results of which confirmed that the substances were in fact prohibited), and
- Text messages from May 2016 and November 2016 that corroborate his narrative.

Further, Respondent's own texts are strong confirmations, if not admissions, that she violated the anti-doping rules. For example:

- The text messages in May 2016, when the relationship with Miller was still amicable, display an image of a vile of Soma-Max 10, the exact product later produced by Miller to USADA that tested positive for recombinant human growth hormone. There was no testimony from Respondent denying that she sent this series of texts.
- "I don't feel like it is wise to continue [the HGH program]. If I can't do it on my own then I'm not at that level anyway."
- "We have no way of knowing how legit that stuff was or if it really worked."
- "Well I definitely wouldn't throw it away. It's expensive and you can still use it."

The culmination of all the evidence was more than adequate to comfortably satisfy the Arbitrator and establish that an anti-doping rule violation occurred, bearing in mind the seriousness of the allegation which was made. Although the Respondent has strongly challenged the credibility of Miller, the Arbitrator "observes first of all that the testimony of persons guilty of wrongdoing themselves can be decisive in establishing the guilt of others, and that the extent of their own culpability may even add to their value, since it is likely to be the result of their extensive involvement, at high levels, in the unlawfulness being examined." *Legkov and International Ski Federation CAS 2017/A/4968*. Miller was extensively involved in Respondent's anti-doping rule violations. Had he not been so involved, he would not have possessed the evidence necessary to establish the anti-doping rule violation.

While Respondent did appear and testify at the hearing, she declined to allow her phone to be examined to validate or refute her defense that she did not send the subject texts; and she declined to provide a DNA sample for comparison to the syringes produced by Miller.

The Arbitrator finds that the Respondent did possess or use prohibited, performance enhancing substances.

B. What is the Applicable Period of Ineligibility and What is the Sanction Start Date.

10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method

The period of Ineligibility for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 10.4, 10.5, or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional;

10.2.1.2 The anti-doping rule violation involves a Specified Substance and the Anti-Doping Organization can establish that the anti-doping rule violation was intentional.

* * *

10.11 Commencement of Ineligibility Period

Except as provided below, 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.

The Arbitrator finds that the period of ineligibility shall be four years. Because Respondent has not accepted a provisional suspension or timely admitted her violation, the Ineligibility period shall commence on the date of this final hearing decision.

C. Disqualification of Results

With respect to disqualification of results, Article 10.8 requires “all other competitive results obtained by the Athlete from the date the . . . anti-doping rule violation occurred, through to the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences for the Athlete including forfeiture of any medals, points and prizes.” The Arbitrator hereby disqualifies the Respondent’s results from September 1, 2015, the approximate date she began using prohibited substances, through the date of this Award.

IV. FINDINGS AND DECISION

On the basis of the foregoing facts and legal analysis, the Arbitrator renders the following decision and award:

- a) Respondent has committed an anti-doping rule violation under the ADR UCI 2.1, 2.2, and 2.6 and the WADA Code;
- b) The following sanction shall be imposed on Respondent:
 - i. A forty-eight (48) month, or four year, period of Ineligibility commencing November 20, 2017, as described in the UCI Anti-Doping Rules and the WADA Code;
 - ii. Disqualification of the competitive results obtained on and subsequent to September 1, 2015, the approximate date Respondent began using prohibited substances, as well as forfeiture of any medals, points and prizes earned during that period;
- c) The parties shall bear their own attorneys' fees and costs associated with this arbitration;
- d) The administrative fees of the American Arbitration Association, and the compensation and expenses of the Arbitrator shall be borne by USADA and the United States Olympic Committee;
- e) This Award shall be in full and final resolution of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

Ordered, Decided and Awarded this the 20th day of November, 2017.



David M. Benck