

1. The applicant (**DFSNZ**) has brought anti-doping violation proceedings against the respondent, Mr Hirini, under the provisions of the Sports Anti-Doping Rules 2014 (**SADR 2014**).
2. The parties have waived the right to a hearing and their counsel have filed a joint memorandum suggesting the appropriate sanction to be imposed. Mr Hirini has admitted the violations alleged in the application.
3. The violations admitted were breaches of:
 - (a) Rule 3.2 SADR 2014 – Use or Attempted Use of a Prohibited Substance.
 - (b) Rule 3.6 SADR 2014 – Possession of a Prohibited Substance.
4. The factual background is that in October 2014, Mr Hirini purchased 20ml Clenbuterol from a website trading under the name of NZ Clenbuterol. He was at various times on or about 29 October 2014 in possession of Clenbuterol which is a prohibited substance under the Prohibited List 2014 and at about the same time used or attempted to use that Clenbuterol.


Sanction

5. The application was filed in early October 2018 and Mr Hirini through his counsel in a letter dated 30 October 2018 admitted the violations but advised he wished to make submissions in respect of the appropriate sanction.
6. The appropriate sanction for the violations is a Period of Ineligibility of 2 years (Rule 14.2 SADR 2014). It is accepted on behalf of Mr Hirini by his counsel that there are no grounds upon which this period can be reduced and that the appropriate sanction is a Period of Ineligibility of 2 years. DFSNZ accepts that there are no grounds for considering whether this period should be increased.
7. The issue is the starting point of the Period of Ineligibility. Mr Hirini was provisionally suspended on 9 October 2018 and is entitled to have the period commence from that date. He is further entitled to have this Committee consider whether the starting date should be back dated under the provisions of Rules 14.9.1 and 14.9.2 of SADR 2014.
8. Rule 14.9.1 SADR 2014 gives a discretion to backdate the Period of Ineligibility where there have been “*substantial delays in the hearing process ... not*

attributable to the athlete". In accordance with earlier decisions of this Committee and the Sports Tribunal of New Zealand, Mr Hirini is entitled to have the starting date back dated under this provision.

9. Under Rule 14.9.2 an athlete may obtain further backdating of the starting point if the athlete promptly admits the violation after being confronted with the alleged violation by DFSNZ. DFSNZ acknowledges that Mr Hirini is entitled to a credit under this provision.
10. The submission made by counsel in the joint memorandum is that under the provisions of Rules 14.9.1 and 14.9.2 this Committee can backdate the Period of Ineligibility and when both provisions are considered a 12 months period of backdating is appropriate. In accordance with earlier decisions in respect of several Clenbuterol violations, this Committee accepts that it is appropriate to backdate the Period of Ineligibility by 12 months from the date of the Provisional Suspension.
11. Mr Hirini having admitted the violations the sanction imposed on him is a Period of Ineligibility of two years commencing 9 October 2017.
12. During the Period of Ineligibility, Mr Hirini is prohibited from participating in any capacity in a *Competition* or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any *Signatory* or *Signatory's* member organisation, or other member organisation of a *Signatory's* member organisation, or in *Competition* authorised or organised by any professional league or any *International* or *National-level Event Organisation* or any elite or national-level sporting activity funded by a governmental agency.
13. Under the provisions of Rule 5.2.3 of the New Zealand Rugby Union Anti-Doping Regulations (26 July 2012), Mr Hirini is entitled to have the finding and/or sanction referred to a Post-Hearing Review Body.

Dated 21 December 2018


.....
Barry Paterson QC
Chairman, Judicial Committee

