SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)

NO: SDRCC DT 16-0242
(DOPING TRIBUNAL)

CANADIAN CENTRE FOR ETHICS IN SPORT (CCES)

CANADIAN WEIGHTLIFTING FEDERATION HALTÉROPHILE CANADIENNE (CWFHC)

AND

TAYLOR FINDLAY (Athlete)

Before:

The Hon. L. Yves Fortier, QC (Arbitrator)

Appearances and Attendances:

On behalf of the CCES:	Mr. Kevin Bean, CCES Ms. Erika Pouliot, CCES Mr. Daniel Burgoyne, Canadian Food Inspection Agency Dr. Osquel Barroso, World Anti-Doping Agency Prof. Christiane Ayotte, expert Me Annie Bourgeois, legal representative
On behalf of the Athlete:	Ms. Taylor Findlay, athlete Ms. Beverly Findlay, athlete's mother Mr. Findlay, athlete's father Ms. Lori Maeda, athlete's aunt Prof. Thomas Tobin, expert Me Amelia Fouques, legal representative

Assistant to the Arbitrator
Ms. Annie Lespérance, LL.M.

AWARD

13 March 2017

I. INTRODUCTION

1. This proceeding before the Doping Tribunal is held pursuant to Article 7 of the 2015 *Canadian Sport Dispute Resolution Code* (the "**Code**"). Article 7 sets out the "*Specific Arbitration Procedural Rules for Doping Disputes and Doping Appeals".* These Rules serve as an extension, a repetition in many respects, of Rule 8.0 of the 2015 *Canadian Anti-Doping Program* (the "**Program**"), which implements the mandatory components of the *World Anti-Doping Code* (WADA Code). In short, this hearing falls within the framework of an international program put in place to eradicate doping in sports and to which Canada adheres by establishing its own Program.

2. The Canadian Centre for Ethics in Sport (the "**CCES**") has been designated with the responsibility to administer the Anti-Doping Program. The CCES is a Signatory of the WADA Code; it is recognized by the World Anti-Doping Agency (WADA), for the purposes of applying the WADA Code, as Canada's national Anti-Doping Organization. The CCES is an independent non-profit organization. In particular, it is in charge of analyzing athletes' samples and, where required, attesting that an athlete has committed a violation of anti-doping rules. Such allegation may then be subject to a hearing before a Doping Tribunal established by the Sport Dispute Resolution Centre of Canada (SDRCC).

3. In the present case, the CCES alleges that the Athlete Taylor Findlay, a weightlifter and member of the Canadian Weightlifting Federation Haltérophile Canadienne ("**CWFHC**" or the "**Federation**"), committed an anti-doping rule violation under rule 2.1 of the Program; namely, a prohibited substance (Clenbuterol, an anabolic agent) from the 2016 WADA Prohibited List (section S-1.2) was detected in her urine sample collected out-of-competition on 12 February 2016. As a result, the CCES recommended that the sanction for this first violation be four years of ineligibility pursuant to Rule 10.2.1 of the Program because Clenbuterol is not a Specified Substance but rather a Prohibited one. The Athlete voluntarily accepted a provisional suspension as of 10 March 2016 prohibiting her from participating in any competition until such time as a decision has been rendered by the Doping Tribunal.

4. Ms. Findlay exercised her right to request a hearing before a doping dispute panel. In her request for a hearing, the Athlete confirmed that she does not contest the results of her A sample analysis but nevertheless claims that she did not commit an anti-doping rule violation as she did not ingest Clenbuterol intentionally. She asserts that the presence of Clenbuterol in her sample is due to the ingestion of contaminated meat.

II. PROCEDURAL HISTORY

8. On 19 April 2016, the CCES notified the Athlete of an anti-doping violation.

9. On 22 April 2016, the SDRCC held an administrative conference call with the Parties. Minutes of the call were then circulated.

10. On 11 May 2016, I held a preliminary conference call with the Parties to discuss the procedural calendar. Minutes of the call were then circulated.

11. On the same date, I issued a Procedural Order establishing that, further to Me Fouques' request that she be allowed to represent her client in the French language despite the fact that the Athlete does not understand French, the language of the proceeding would be French, and recording the Athlete's renunciation to invoke the language of the arbitration as a ground for an appeal in the event that my decision is adverse to the Athlete's interest.

12. The Athlete sought various extensions to file her response to the CCES' notification because, *inter alia*, she was seeking evidence from the Canadian Food Inspection Agency which was allegedly not cooperating. As the CCES did not object to those extensions, I granted them.

13. On 26 September 2016, I held a second preliminary conference call with the Parties to discuss the procedural calendar. Minutes of the call were then circulated.

14. On 17 October 2016, in accordance with the procedural calendar, the Athlete filed her response to the CCES' anti-doping violation accusation together with the expert report of Prof. Thomas Tobin, her will-say statement, those of her mother and her aunt, as well as factual exhibits and legal authorities.

15. On 7 November 2016, the CCES filed its response together with the expert report of Prof. Christiane Ayotte, the will-say statements of Mr. Kevin Bean, Mr. Daniel Burgoyne and Dr. Osquel Barroso, as well as factual exhibits and legal authorities.

16. On 25 November 2016, I held a pre-hearing organizational call with the Parties. Minutes of the call were then circulated.

17. A hearing was held on 29 and 30 November 2016 at the offices of Me Bourgeois, counsel for the CCES, with the consent of the Athlete's counsel. At Me Fouques' request, the SDRCC provided simultaneous interpretation services from French to English during the first day of hearing for the benefit of Ms. Findlay.

18. On the first day of the hearing, counsel for the Athlete asked for leave to introduce into the record the results of a polygraph examination to which the Athlete had been subjected the previous day. The CCES objected to the introduction of this report in the record at this late hour and also argued that such a report was inadmissible. Counsel for the CCES asked for leave to provide me with written submissions following the hearing. I granted the CCES' request and ruled that I would then decide whether or not the results of the polygraph examination were admissible.

19. At the conclusion of the hearing, in consultation with the parties, I fixed the procedural calendar for the remainder of the arbitration.

20. On 30 November 2016, following questions put to Mr. Burgoyne by the Athlete's counsel during her cross-examination, the CCES filed Mr. Burgoyne's amended will-say statement, together with a table entitled "CFIA Summary of National Chemical Residue Monitoring Program Data for Clenbuterol Testing in all Meat Species – April 1, 2014 – March 31, 2016".

21. The CCES filed further written submissions on 22 December 2016 together with the report of Mr. Norman Kelly, a polygraph expert. The Athlete filed a short response by e-mail on 11 January 2017.

22. By letters dated 1 and 5 December 2016, the parties confirmed that they did not object to the award being issued in English, with a translation in French to follow thereafter.

23. A hearing was held on 8 February 2017 at the offices of the SDRCC when the parties submitted their oral closing arguments. Again at Me Fouques' request, the SDRCC provided simultaneous interpretation services from French to English during the hearing for the benefit of Ms. Findlay and her parents.

24. At the outset of this hearing, I ruled that, having read the parties' submissions, I would admit into the record the result of the polygraph examination and that, in my award, I would determine the probative value of the report.

25. At the conclusion of this hearing, I directed the parties to file brief submissions concerning the *Pechstein*[1] and *Worley*[2] decisions in respect of which the Athlete had made oral submissions during her closing argument.

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[1] *Claudia Pechstein and The International Skating Union (ISU),* German Federal Tribunal (Bundesgerichtshof), 6 June 2016.
[2] *Worley* v. *Ontario Cycling Association*, 2015 HRTO 1135 (CanLII) and *Worley v. Ontario Cycling Association*, 2016 HRTO 952 (CanLII).

26. The Athlete filed her submission on 20 February 2017 and the CCES filed its response on 7 March 2017.

27. On 9 March 2017, I declared the proceedings closed.

III. APPLICABLE LAW

28. The following rules are relevant to the present dispute.

29. Article 7.11 of the Code provides that:

> ***7.11 Burdens and Standards of Proof***
>
> *Pursuant to Rule 3.1 of the Anti-Doping Program, in Doping Disputes, the CCES shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the CCES has established an anti-doping rule violation to the comfortable satisfaction of the Doping Dispute 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. When the rules of the Anti-Doping Program place the burden of proof upon the Party 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.*
>
> *(Emphasis added.)*

30. Rule 2.1 of the Program provides that:

> ***2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample***
>
> *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 rule violation under Rule 2.1.*
>
> *2.1.2 Sufficient proof of an anti-doping rule violation under Rule 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete's A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analyzed; or, where the Athlete's B Sample is analyzed 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; or, where the Athlete's B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.

2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample shall constitute an anti-doping rule violation.

2.1.4 As an exception to the general rule of Rule 2.1, the Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.

31. Rule 10.2 of the Program states, in relevant part, that:

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 Rules 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Rules 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.

[…]

10.2.3 As used in Rules 10.2 and 10.3, 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. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule

violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.

32. Rule 10.4 of the Program states that:

10.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence

If an Athlete or other Person establishes in an individual case that he or she bears No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated.

33. Rule 10.5 of the Program provides, in relevant part, that:

10.5 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence

10.5.1 Reduction of Sanctions for Specified Substances or Contaminated Products for Violations of Rule 2.1, 2.2 or 2.6.

[…]

10.5.1.2 Contaminated Products

In cases where the Athlete or other Person can establish No Significant Fault or Negligence and that the detected Prohibited Substance came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two years Ineligibility, depending on the Athlete's or other Person's degree of Fault.

IV. PARTIES' SUBMISSIONS

a) CCES' Position

34. The CCES, noting that the Athlete has not contested the results of her A Sample analysis, requests that I decide that the Athlete has committed an anti-doping rule violation, more precisely a breach of rule 2.1 of the Program, in view of the presence of a prohibited substance, Clenbuterol, in her urine sample.

35. The CCES also requests that I decide that the Athlete's period of ineligibility for having committed an anti-doping rule violation be four years in view of the fact that this is her first anti-doping rule violation and that the Athlete has not been able to prove, by a balance of probabilities, how Clenbuterol had entered her body.

36. The CCES submits that, if I conclude on a balance of probabilities that the presence of Clenbuterol in the Athlete's urine was due to her consumption of contaminated meat in Canada (as the Athlete submits), it would withdraw the anti-doping rule violation as, in that case, it would agree that her violation was not intentional.[3]

37. In the event that I conclude that the Athlete need not prove how Clenbuterol entered her body and that I believe the Athlete when she says that the presence of Clenbuterol in her body was not intentional, the CCES submits that the Athlete's sanction should be reduced from four to two years.

b) Athlete's Position

38. The Athlete does not contest the results of her A Sample analysis which confirmed the presence of Clenbuterol in her urine sample but submits that she did not commit an anti-doping rule violation as she did not ingest Clenbuterol intentionally, the presence being due to her ingestion of contaminated meat in Canada.

39. Accordingly, the Athlete requests that I decide that she did not commit any anti-doping rule violation.

V. THE EVIDENCE

40. Ms. Findlay is 23 years old. She has been practicing the sport of weightlifting since she was 15 years old. She participated in her first national competition in 2009 and her first international competition in 2014. In March 2015, she was tested out of competition and the results were negative.

41. On 12 February 2016, she was tested out of competition by the CCES.

42. On 1 March 2016, the CCES was notified that the analytical finding of the Athlete's A sample revealed the presence of a prohibited substance, Clenbuterol. The

[3] The CCES relies in this respect on Dr. Barroso's will-say statement in which he states, at para. 14, that "*[i]n a case where an athlete is able to demonstrate, on a balance of probabilities (or would be able to demonstrate the same if a hearing was to be held) that the [adverse analytical finding] for Clenbuterol was caused by eating meat contaminated with Clenbuterol, WADA's position is that the Results Management Authority may close the case on the basis of the meat contamination and not pursue an anti-doping rule violation against the athlete for the Presence of Clenbuterol in his/her urine sample.*"

Certificate of Analysis indicates that Clenbuterol was present "*at a level roughly estimated at 0.15 ng/ml; such level is also compatible with the consumption of contaminated meat (Mexico and China)*".

43. On 19 April 2016, following various communications with the Athlete, the CCES issued a Notification of Anti-Doping Rule Violation and recommended that the mandatory period of ineligibility of four years be imposed.

44. The Athlete maintains that the presence of Clenbuterol in her sample is due to the ingestion of contaminated meat.

45. The Athlete put into evidence:

    45.1 A will-say statement from the Athlete

    Ms. Findlay testified in person at the hearing.

    Ms. Findlay is half Japanese (mother) and half Scottish (father). She currently works full-time in a veterinary clinic and lives with her parents. She says that weightlifting is her passion and she takes training very seriously. She follows a strict diet which consists of high protein mainly from meat. She consumes beef, veal, chicken, turkey, pork, lamb, horse, ox liver, deer and bison. Her mother does all the grocery shopping for the household. Ms. Findlay has dinner at her aunt's house at least once a week and occasionally eats in reputable restaurants. She testified that she ate horse meat at a French restaurant in November 2015 and again at the end of January/beginning of February 2016.

    On 5 March 2016 while she was on a bus on her way to a friend's party, she received an e-mail from the CCES notifying her that her February 12th urine sample had revealed the presence of a prohibited substance. She said she was shocked. She testified that she didn't understand how this positive result could have happened. She did not even know what Clenbuterol was. After the party, she met with her coach. Together, they retrieved information on the Internet in respect of Clenbuterol. Thereafter, she returned home. She informed her parents, in the presence of her coach, the following day.

    In answer to a question from her lawyer, the Athlete said that, in February 2016, she did not want to lose weight but rather wanted to gain weight to be on an equal playing field with other athletes of her category.

She confirmed that she had never travelled to China, Mexico or Guatemala. She also confirmed that she was not in contact with horses at the veterinary clinic where she works.

45.2 The results of a polygraph examination

As noted earlier, Ms. Findlay, at the suggestion of her lawyer, voluntarily underwent a polygraph examination on 28 November 2016. The examination was conducted by Mr. Alain Lépine. He concluded that Ms. Findlay's responses to his questions were truthful and that "she never knowingly or voluntarily take [sic] Clenbuterol products in the past 2 years."

The CCES objected to the admissibility of the results of this examination into the record. The CCES submitted that the reliability of polygraph tests is disputed both by medical professionals and by Quebec and Canadian courts. Should I admit the results of her examination, the CCES requested that they be given no or very little probative value. In response, the Athlete relying mainly on the *Contador* decision[4], submitted that the results of such an examination were admissible and agreed that their probative value should be determined by me.

At the commencement of the February hearing, I decided to admit into the record the results of the Athlete's polygraph examination, subject to my determination of their probative value.

45.3 A will-say statement from the Athlete's mother, Beverly Findlay

Mrs. Findlay, the Athlete's mother, testified by telephone.

Mrs. Findlay confirmed that she was responsible for buying groceries for the household, including her daughter's meals. She said she buys only top quality meat with no chemicals: only home grown meat. She purchases meat at either one of the following stores: Loblaws, Metro, No-Frills and FreshCo. She checks the broths' labels before buying them. She occasionally asks her sister to buy chicken or other Japanese products at an Asian supermarket.

She said she was surprised that her daughter's urine sample resulted in an adverse analytical finding. She did not expect meat contamination in Canada.

45.4 A will-say statement from the Athlete's aunt, Lori Maeda

[4] *Union Cycliste Internationale (UCI) v Alberto Contador Velasco et al.,* CAS 2011/A/2384.

Ms. Maeda also testified by telephone at the hearing. She confirmed that her niece has eaten dinner at her house at least once a week for the past six months. She only buys quality meat as she knows Taylor, as an athlete, is very careful about what she eats. She buys the meat in grocery stores and Asian supermarkets. She usually buys chicken, pork or beef.

45.5 A detailed opinion from Prof. Thomas Tobin

Professor Tobin also testified by telephone at the hearing.

Professor Tobin is a Professor of Veterinary Science at the Maxwell H. Gluck Equine Research Center, University of Kentucky, USA, as well as a Professor at the Graduate Center for Toxicology/Department of Toxicology and Cancer Biology, University of Kentucky, USA, since 1975. He is a toxicologist, a pharmacologist and a veterinarian.

He opines that Clenbuterol should have been classified by WADA as a Specified Substance under Section 3 of WADA's Prohibited List rather than a Prohibited Substance as "*Clenbuterol is not an anabolic agent per se and neither is it pharmacologically considered to be anabolic. Clenbuterol is, chemically and pharmacologically, a beta-2 agonist, that is a member of the group of agents specified and listed under S3.*"

He further opines that had a hair test been administered rather than a urine test, that test would have scientifically revealed whether Clenbuterol was ingested environmentally or whether the Athlete had doped. He relies on the *Krumbholz* paper attached to Dr. Barroso's will-say statement in this respect.

Finally, he recalls that the Certificate of Analysis indicates that the reported urinary concentration of Clenbuterol "*is compatible with the consumption of 'contaminated' meat (Mexico and China)*". He explains how it is possible for a race horse in the South of the United States to have been administered Clenbuterol from Mexico. He further states that, since horses can no longer be slaughtered in the United States but can be slaughtered in Canada, it is plausible that the meat of this horse could have then been eaten in Canada.

45.6 Press Articles

The Athlete filed a number of press articles dealing with the presence of veterinary drugs in horse meat in Canada.

I note, in particular, an article dated 19 March 2014 entitled *Tainted meat: Banned veterinary drugs found in horse meat* which reports that:

> "*The [CFIA] says it has tested an average of 385 samples per year since 2010. But that means out of 82,000 horses slaughtered in 2012, less than 0.5% were tested. In an email, the agency claimed its tests show a 98 per cent industry compliance rate with industry standards regarding banned substances. […]*
>
> *In 2012 […], European regulators announced a shipment of Canadian horse meat tested positive for Phenylbutazone and Clenbuterol. Advocacy groups like the Canadian Horse Defence Coalition have also documented drug-riddled horses getting past inspectors, and entering the human food chain*."

46. In reply, the CCES avers that it was highly improbable that Canadian meat or meat imported into Canada would be contaminated with Clenbuterol.

47. The CCES put into evidence:

    47.1 <u>An Affidavit of Mr. Kevin Bean</u>

    Mr. Kevin Bean is the Senior Manager, Canadian Anti-Doping Program, for the CCES.

    In his Affidavit, Mr. Bean affirms the following:

> *"6. Ms. Taylor Findlay (the Athlete) is a member of and participates in the activities of the Canadian Weightlifting Federation Haltérophile Canadienne (CWFHC). According to Rule 1.3 of the CADP, the CADP provisions apply to all members of, and participants in the activities of, sport organizations adopting it. The CADP was issued for adoption by Canadian sport organizations on October 1, 2014 to be operational on January 1, 2015. The CWFHC adopted the CADP on December 26, 2014. Therefore, as a participant in CWFHC sport activities, Ms. Findlay is subject to the rules of the CADP.*
>
> ***The Doping Control***
>
> *7. On February 12, 2016, the CCES conducted an out-of-competition doping control in Scarborough, Ontario.*
>
> *8. Ms. Karen Moloney was responsible for the sample collection which*

took place on the Athlete on February 12, 2016 at the Athlete's residence. Ms. Moloney is a certified Doping Control Officer (DCO) with the CCES.

9. *The Athlete underwent doping control on February 12, 2016. Attached hereto and marked as **Exhibit 1** to my affidavit is a copy of the Athlete's Athlete Selection Order Form. The Athlete Selection Order serves as the record of athlete notification required by Article 5.4 of the International Standard for Testing and Investigations (ISTI). The Athlete's Athlete Selection Order indicates that she was notified for doping control on February 12, 2016 at 06:27 by Ms. Karen Fernandez, a CCES Chaperone, assisting Ms. Moloney with the doping control session. The Athlete signed her Athlete Selection Order acknowledging she had received and read the notification.*

10. *I have been advised by Ms. Moloney and verily believe that upon her arrival at the Athlete's residence, the Athlete was informed of the doping control process by Ms. Moloney. Under Ms. Moloney's supervision, the Athlete completed the following procedures. She selected a sealed collection vessel from a number of sealed collection vessels into which she was to provide her urine sample. She was escorted to her washroom by Ms. Moloney where she provided a witnessed urine sample.*

11. *Further, I have been advised by Ms. Moloney and verily believe that on her first attempt, the Athlete provided 135mL of urine which met the minimum requirements of 90mL. Under the direction of Ms. Moloney, the Athlete selected a WADA approved Berlinger sample collection kit consisting of an "A" and "B" bottle from a number of sealed kits. Accordingly, the Athlete was instructed to seal her sample in the Berlinger kit. Under Ms. Moloney's supervision, the Athlete confirmed that the sample identification number contained on the Berlinger kit, the "A" and "B" bottles, and the lid for each of the "A" and "B" bottles was the same. The number on her sample collection kit was […]. The Athlete transferred her urine sample from the collection vessel into the "A" and "B" bottles of the sample collection kit. She then sealed the sample collection kit.*

12. *I have been advised by Ms. Moloney and verily believe that she and the Athlete completed the Doping Control Form together. Attached hereto and marked as **Exhibit 2** to my affidavit is the Athlete's Doping Control*

Form. The Doping Control Form serves as the record of the Athlete's test and contains information pursuant to Article 7.4 of the WADA ISTI. In the Athlete remarks section of the Doping Control Form, Ms. Findlay did not provide any comments. The purpose of this portion of the Doping Control Form is to provide the Athlete with an opportunity to submit any comments or concerns she may have had with the sample collection session. As is recorded on the Doping Control Form, the Athlete's doping control session was concluded at 08:20.

13. *I have been advised by Ms. Moloney and verily believe to be true that Ms. Findlay's urine sample (sample code […]) was then secured in a CCES transport bag by Ms. Moloney. Attached hereto and marked as* ***Exhibit 3*** *to my affidavit is a copy of the Chain of Custody Form. The Chain of Custody Form serves as the official record that the samples collected during a sample collection session have been shipped by secure chain of custody to the World Anti-Doping Agency (WADA) accredited laboratory, the Control Laboratory at INRS-Institut Armand-Frappier (the "Laboratory").*

14. *As per the Laboratory's usual practice, upon receipt of the Athlete's sample, the Laboratory provided the CCES with an Acknowledgement of Receipt. Attached hereto and marked as* ***Exhibit 4*** *to my affidavit is a copy of the Acknowledgement of Receipt pertaining to the Athlete's sample ([]). The top portion of the exhibit indicates that a representative for the Laboratory in Montreal received the Athlete's urine sample on February 15, 2016.*

15. *Ms. Moloney completed the DCO Report on February 12, 2016 following the completion of the doping control session. Attached hereto and marked as* ***Exhibit 5*** *to my affidavit is a copy of the DCO Report. The DCO Report serves as a record for the sample collection session and requires the DCO to comment on various aspects of the session.*

16. *Ms. Moloney did not identify any concerns regarding the Athlete's sample collection session in the DCO Report.*

The Results Management

17. *As a Senior Manager, Canadian Anti-Doping Program, I am responsible for planning and managing procedures for adverse analytical findings, results management, hearings and appeals. I am assisted in these*

duties by Erika Pouliot, Results Coordinator with the CCES. Ms. Pouliot is a member of my team and works under my supervision.

18. *On March 1, 2016, the CCES received the Certificate of Analysis from the WADA-accredited laboratory in Montreal relating to Ms. Findlay's A sample (sample code[…]). The Certificate of Analysis indicated an adverse analytical finding for sample […] for the presence of Clenbuterol (at a level roughly estimated at 0.15 ng/ml; such level is also compatible with the consumption of contaminated meat (Mexico and China)). Attached hereto and marked as* ***Exhibit 6*** *to my affidavit is a copy of the Certificate of Analysis pertaining to Ms. Findlay sample (sample code[…]).*

19. *Clenbuterol is a prohibited substance (anabolic agent) according to the 2016 WADA Prohibited List. Clenbuterol is not a threshold substance and therefore any level detected in an athlete's sample is prohibited. Attached hereto and marked as* ***Exhibit 7*** *to my affidavit is a copy of the 2016 WADA Prohibited List.*

Initial Review

20. *On March 3, 2016, following the receipt of the Laboratory report found at Exhibit 6 the CCES commenced an initial review. The purpose of the initial review is to determine if the Athlete has a relevant TUE or if there were any departures in the Laboratory analysis or sample collection process that could have resulted in the adverse finding. Attached hereto and marked as* ***Exhibit 8*** *to my affidavit is a copy of the CCES' initial review letter sent to the CWFHC on March 3, 2016.*

Notice of Apparent Violation

21. *On April 19, 2016, following various communications with the athlete, the CCES completed its initial review and issued a Notification of an Anti-Doping Rule Violation, pursuant to Rule 7.3.1 of the CADP. The Athlete had no TUE for the substance Clenbuterol and had not identified departures in the Laboratory analysis or sample collection process that could have resulted in the adverse finding. Attached hereto and marked as* ***Exhibit 12*** *to my affidavit is a copy of the Notification.*

22. *As set out in the Notification, the CCES asserted that the Athlete had committed an anti-doping rule violation pursuant to Rule 2.1 (Presence in Sample) and/or Rule 2.2 (Use) of the CADP. In accordance with*

CADP Rule 10.2.1, the CCES proposed that the sanction for this violation be a four (4) year period of ineligibility."

47.2 A detailed opinion from Prof. Christiane Ayotte

Professor Ayotte is an internationally recognized authority in the world of anti-doping. She has a doctorate in organic chemistry and is the director of the Doping Control Laboratory of the INRS-Institut Armand-Frappier in Montréal. She is associated with many international and Canadian organizations that engage in doping control. She has appeared, *inter alia*, as an expert witness before the Court of Arbitration for Sport and numerous other doping tribunals. The Laboratory that she heads analyzes some 24,000 samples of athletes annually.

Relevant paragraphs of Professor Ayotte's opinion are quoted below.

"[C]lenbuterol is known as a doping agent since the 1990s. It is used as an anabolic and as a "fat burner" which makes it a product that can be abused to control the body weight and to maintain the muscular mass (for example for the practice of sports with weight categories and for body image). Clenbuterol can be bought in pill format from numerous websites and on the black-market where classic anabolic drugs can be purchased as well as other doping products."

[…]

"For more than twenty years, the use of clenbuterol by human athletes is prohibited at all times, in and out of competitions, that is, during trainings, at rest, in preparation for competitions, etc. It is not a threshold substance, meaning that there is no level tolerated nor permitted for clenbuterol in athletes' urines. Poorly tolerated due to its important side effects, clenbuterol, when detected, is frequently found in low concentrations in athletes' urines, the administered doses being minimal (in the range of 20 to 40 µg (micrograms)). This explains why WADA requires that the laboratories be capable to detect at least 0.2 ng/mL […], which is a level similar to the one found in this athlete's case. During the 1990s, examples of clenbuterol poisoning due to the consumption of contaminated meat were identified […], which lead to the tightening of regulations and controls regarding the use of this growth promoter in many countries."

"No medication containing clenbuterol is approved for therapeutic use for humans in Canada […] and it is not approved as a growth promoter for the animals raised for their meat. Athletes and the population in general

would therefore not be at risk from being "exposed" innocently to clenbuterol by the consumption of meat containing traces from same. This seems to be compliant with the results of the tests done on athletes' samples. Indeed, our experience of the past twenty years shows that clenbuterol is only rarely detected in athletes' urines in Canada (15 cases from 77,000 urine samples approximately, in 22 years) whereas clenbuterol findings are prevalent when the tests are administered in Mexico. In that country, clenbuterol seems illegally used in agriculture and is badly controlled by the health authorities. It is administered to animals for several months and it is found in the tissues, in particular the liver, where it accumulates […]. The meat containing traces of clenbuterol contaminates the individuals who consume it. Athletes who comeback [sic] from Mexico (or China) will, for a few days, provide samples that are frequently positive. Cases of clenbuterol food poisoning are still nowadays identified in China […], whereas the Mexican authorities seem to acknowledge the problem."

[…]

"The athlete apparently not having been to Mexico or China, the presence of clenbuterol in [her] urine sample […] would be therefore due to its ingestion in the days leading to the test and not to a passive exposure."

(Emphasis added.)

Professor Ayotte concludes her opinion as follows:

"The presence of clenbuterol in the athlete's urine is a sign of an ingestion prior to the test collected out of competition and it is unlikely that the presence of clenbuterol results from the consumption of clenbuterol contaminated meat in Canada considering the facts that (a) the athlete is part of a very limited group of 15 athletes whose samples have been reported positive in Canada over a period of 22 years, (b) in Canada, clenbuterol is not an authorised medication for humans nor for slaughter animals; the population is therefore not exposed to clenbuterol otherwise than by the illegal acquisition of doping products."

(Emphasis added.)

Professor Ayotte testified in person at the hearing and confirmed her opinion. She acknowledged that she should also have referred to Guatemala as a country where there are cases of Clenbuterol food contamination. She concluded that, in her professional opinion, "meat contamination [in this case] is not an option."

47.3 A will-say statement from Dr. Osquel Barroso

Dr. Barroso is Deputy Director, Science, at WADA since June 2014. Prior to June 2014, he was Senior Manager, Science at WADA.

In essence, Dr. Barroso states that, since 2011, on the basis of the statistics maintained by WADA, he is aware of "*277 cases where the presence of Clenbuterol in an athlete's urine sample resulted in an Adverse Analytical Finding (AAF). These AAFs were caused by the athlete eating contaminated meat principally in Mexico, China but also in Guatemala.*" He was made aware that Mexico and China have Clenbuterol contaminated meat issues in February 2011 and the first case that he was aware of originating from Guatemala involving contaminated meat was in 2012.

He says that he is not aware of any AAF for Clenbuterol which was caused by (i) an athlete eating meat in a country other than Mexico, China or Guatemala, or (ii) meat originating from Canada or meat imported in Canada.

Dr. Barroso concludes that "*given that Clenbuterol is a potent doping agent and all cases are different, a case-by-case approach where all elements and relevant facts are analysed is required when determining how the substance entered an athlete's body.*"

Dr. Barroso testified in person at the hearing and confirmed the contents of his statement. In the present case, he said it was "highly unlikely" that contaminated meat could explain the presence of Clenbuterol in the Athlete's urine.

47.4 A will-say statement from Mr. Daniel Burgoyne (as amended)

Mr Burgoyne is the national manager, imported foods, for the Canadian Food Inspection Agency (CFIA) since 2014. He has worked for the CFIA for the past 22 years.

Following his cross-examination by the Athlete's counsel, which was based on his will-say statement filed by the CCES on 7 November 2016, and as directed by me, Mr. Burgoyne filed an amended will-say statement on 30 November 2016.

In his amended statement, Mr. Burgoyne provided more precise statistics. In essence, he stated that, in respect of meat originating from Canada, in 2014-2015, the CFIA carried out approximately 3,000 tests to detect Clenbuterol and all were negative. In 2015-2016, the CFIA carried out 3,168 tests to detect Clenbuterol and all were negative.

In respect of meat imported in Canada, Mr. Burgoyne states that, in 2015-2016, the CFIA carried out 578 tests to detect Clenbuterol and all were negative.

The only meat imported from China which was intended for consumption in the Canadian market for the year 2015-2016 was cooked duck. All of the meat imported from China in that year was tested: 15 tests were carried out to detect Clenbuterol and all were negative.

Meat products imported from Mexico from animals raised and slaughtered in Mexico in the year 2015-2016 are pork and beef. With respect to poultry meat products from Mexico, the CFIA only allows poultry meat of Canadian and American origin exported to Mexico for processing there for re-export to Canada in finished product. Eleven tests were carried out in that year to detect Clenbuterol in Mexican meat products and all were negative.

Mr. Burgoyne testified by videoconference at the hearing and confirmed the contents of his statement. As the Athlete's counsel chose not to cross-examine Mr. Burgoyne on his amended statement, the witness was never asked to confirm it. His amended statement forms part of the record.

48. In respect of the credibility of expert witnesses:

(i) The Athlete submits that Professor Ayotte cannot be considered a credible expert in view of the fact that her laboratory has a contract with the CCES worth millions of dollars for drug testing, providing expert testimony and updating athlete's biological passports. Professor Ayotte confirmed at the hearing that her laboratory has a three-year contract with the CCES worth 1.7 million dollars per year. There is thus, submits the Athlete, a clear conflict of interest and an apparent lack of independence between Professor Ayotte and the CCES, the party on behalf of whom she provided expert testimony in the present case.

(ii) The CCES submits that Professor Tobin cannot be considered a credible expert as he is not an expert in anti-doping. Professor Tobin confirmed at the hearing that this was the first anti-doping case in which he testified.

VI. ANALYSIS

a) The Jurisdiction of the Anti-Doping Tribunal

49. During the February hearing, the Athlete appeared to contest my jurisdiction on the basis of the *Pechstein* and *Worley* decisions. Accordingly, I asked the parties to provide me with brief written submissions in this respect.

50. In her written submission, the Athlete submits that, although she was reticent to appear before me in view of the fact that, in her opinion, the arbitration clause was imposed on her and not freely negotiated, she nevertheless accepts the jurisdiction of the Anti-Doping Tribunal and reserves her right to appeal before national courts any decision by me which is contrary to her submissions. [5]

51. Consequently, I need not analyze the parties' submissions in respect of these two decisions.

52. For purposes of the present Award, it is sufficient for me to note the Athlete's acceptance of my jurisdiction.

b) Whether the Athlete has committed an anti-doping rule violation

53. The Athlete denies that she has committed an anti-doping rule violation. The CCES must therefore establish, to my comfortable satisfaction, that the Athlete has committed an anti-doping rule violation pursuant to Article 7.11 of the Code.

54. The CCES submits that it has discharged its burden of proof.

55. According to Rule 2.1 of the Program quoted above, to establish the presence of a Prohibited Substance, the CCES need not demonstrate intent, fault, negligence or knowing use on the Athlete's part, neither does it need to meet a quantitative threshold. The mere presence of the Prohibited Substance in the Athlete's A sample, where the Athlete has waived analysis of the B sample, is sufficient.

56. In the present case, the Athlete has admitted the presence of Clenbuterol in her A sample and has waived the analysis of her B sample on 10 March 2016.

57. However, the Athlete does not admit that she has committed an anti-doping violation since, she argues, the Clenbuterol found in her body was due to her ingestion of contaminated meat.

[5] My emphasis. See Athlete's letter of 20 February 2017. Me Fouques wrote as follows: "Au niveau de la SDRC [sic], dans la mesure où les coûts (hors avocats et experts) ne sont pas à la charge des athlètes, et où nous avons un certain respect pour la formation en droit du sport et l'intégrité des arbitres, nous avons accepté de comparaitre [sic] devant ce tribunal d'arbitrage. Cependant, nous nous réservons le droit de saisir les tribunaux de droit commun si ce dossier devrait aller en appel, pour protéger les droits fondamentaux de notre cliente."

58. Accordingly, the first question which arises and which I have to decide is whether the CCES has established, to my comfortable satisfaction, that an anti-doping rule violation by the Athlete has occurred.

59. Having considered the affidavit of Mr. Kevin Bean and the exhibits attached, I have no hesitation in concluding that the CCES has discharged its burden of proof and that there was Clenbuterol, a Prohibited Substance, in the Athlete's A sample.

60. I thus find that Taylor Findlay has committed an anti-doping violation by breaching Rule 2.1 of the Program. I note that this is a first violation of Rule 2.1 by the Athlete.

c) Sanction

61. Pursuant to Rule 10.2.1. of the Program, the period of Ineligibility for a first violation of Rule 2.1 (Prohibited Substance) is four years.

62. The Athlete's expert, Professor Tobin, in his report, submits that Clenbuterol has not been properly classified in the 2016 WADA Prohibited List. It is featured as a Prohibited Substance under Section S-1.2; whereas, Professor Tobin asserts, it should have been classified as a Specified Substance under Section 3. The Athlete's mandatory period of ineligibility would therefore be two instead of four years.

63. I see no need to determine whether Clenbuterol was properly classified by WADA in view of the clear Rule 4.3 of the Program. It reads as follows:

> ***4.3 WADA's Determination of the Prohibited List***
>
> *WADA's determination of the Prohibited Substances and Prohibited Methods that will be included on the Prohibited List, the classification of substances into categories on the Prohibited List, and the classification of a substance as prohibited at all times or In-Competition only, is final and shall not be subject to challenge by an Athlete or other Person based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.*
>
> *(Emphasis added.)*

64. This submission of the Athlete is therefore rejected.

d) Whether the Sanction can be Reduced

(i) The Applicable Test

65. As noted above, according to the Program, the period of Ineligibility for a violation of Rule 2.1 (Prohibited Substance) is four years unless the Athlete can establish that the anti-doping rule violation was not intentional. The burden of proof that the anti-doping rule violation was not intentional rests with the Athlete.

66. The CCES submits that, in order for the Athlete to discharge her burden of proof, she must establish, by a balance of probabilities, firstly how Clenbuterol entered her body and secondly that the violation was not "intentional" as defined in Rule 10.2.3 of the Program.

67. In other words, submits the CCES, prior to analyzing the Athlete's intention, I must be reasonably satisfied as to how the Clenbuterol has entered the Athlete's body.

68. The Athlete, on the other hand, relying on a recent decision of a SDRCC tribunal[6], argues that an athlete does not need to demonstrate how the Prohibited Substance entered his/her body as a prerequisite to an analysis of the athlete's intention.

69. In reaching my decision as to which interpretation of Rules 2.1, 10.2.1.1, 10.2.3 and 10.5.1.2 of the Program I should adopt, I have read and considered the following authorities to which the parties have referred:

    - SDRCC DT 16-0246 Re *Tristan Grosman*
    - SDRCC DT 15-0225 Re *Youssef Youssef*
    - SDRCC DT 15-0239 Re *Justin Maheu*
    - SDRCC DT 15-0229 Re *Brian Banner*
    - CAS 2005/C/976 & 986, *FIFA & WADA, Advisory Opinion,* 21 April 2006
    - CAS 2008/A/1489 *Despres v. CCES* & CAS 2008/A/1510 *WADA v. Despres, CCES & Bobsleigh Sketelon Canada*
    - CAS 2009/A/1926 & CAS 2009/A/1930, *International Tennis Federation* v. *Richard Gasquet* and *WADA* v. *ITF* & *Richard Gasquet*
    - CAS 2010/A/2230 *International Wheelchair Basketball Federation* v. *UK Anti-Doping Ltd.* and *Simon Gibbs*
    - CAS 2011/A/2384 & CAS 2011/A/2386, *WADA and Union Cycliste Internationale* v. *Alberto Contador Velasco* & *RFEC*
    - CAS 2011/A/2495 *FINA* v. *César Augusto Cielo Filho* and *CBDA*

[6] See SDRCC DT 16-0246 Re *Tristan Grosman.*

- CAS 2013/A/3327 *Marin Cilic* v. *International Tennis Federation*
- CAS 2014/A/3572 *Sherone Simpson* v. *Jamaica Anti-Doping Commission (JADCO)*
- CAS 2014/A/3571 *Asafa Powell* v. *Jamaica Anti-Doping Commission (JADCO)*
- CAS 2014/A/3615 *WADA* v. *Lauris Daiders, Janis Daiders* & *FIM*
- CAS 2015/A/4129 *Demirev et al.* v. *International Weightlifting Federation*
- CAS 2016/A/4439 *Tomasz Hamerlak v International Paralympic Committee*
- CAS 2016/A/4643 *Sharapova* v. *International Tennis Federation*
- CAS 2016/A/4662 *WADA v Caribbean Regional Anti-Doping Organization & Alanzo Greaves*
- *IPF DHP International Powerlifting Federation* v. *Hristov*, 2016
- SR/0000120227 *UK Anti-Doping* v. *Gareth Warburton and Rhys Williams*
- SR/0000120248 *UK Anti-Doping v. Songhurst*
- SR/0000120259 *UK Anti-Doping v. Graham*
- SR/0000120256 *UK Anti-Doping v. Hastings*

70. I start from the overriding premise that it is each athlete's personal duty to ensure that no Prohibited Substance enters his or her body.

71. I have already found that the Athlete in the instant case has committed an anti-doping violation as a Prohibited Substance was found in her body.

72. The Rules then direct me to impose on the Athlete a sanction of ineligibility of four years "unless the Athlete […] can establish that the anti-doping rule violation was not intentional".

73. Helpfully, the Program provides me with a definition of the term "intentional".

74. "Intentional", says Rule 10.2.3 of the Program, "is meant to identify those Athletes who cheat" and the term requires proof that the Athlete engaged in conduct which she knows (in the instant case) constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might contribute or result in an anti-doping rule violation and manifestly disregarded that risk.

75. I have purposely underlined in the previous paragraph those words which clearly go to the intention of the Athlete.

76. At this point in my analysis, the question which arises, and which has recently divided the jurisprudence, is whether I can inquire into and determine the intention of the Athlete whose conduct I am examining without first having been satisfied as to how the Prohibited Substance had entered her body.

77. It appears to me that, logically, I cannot fathom nor rule on the intention of an athlete without having initially been provided with evidence as to how she had ingested the product which, she says, contained the Clenbuterol. With respect for the contrary view, I fail to see how I can determine whether or not an athlete intended to cheat if I do not know how the substance entered her body.

78. Accordingly, I will proceed in that way with a two-step consecutive analysis of the evidence which the Athlete has addressed in the present case.

(ii) Application of the Test

79. The Athlete's evidence as to how the Clenbuterol entered her body consists solely of her statement that "at the end of January or the beginning of February 2016" she had eaten horse meat in a restaurant.

80. That horse meat, argued forcefully and vigorously her lawyer, could have been contaminated with Clenbuterol.

81. I note that the Athlete's theory rests in large measure on the mention in the Certificate of Analysis that the level of Clenbuterol detected in her urine (0.15 ng/ml) was "also compatible with the consumption of contaminated meat" and the press articles dealing with the presence of veterinary drugs in horse meat in Canada.

82. On the other hand, I have the evidence of Professor Ayotte, an experienced and recognized authority in anti-doping worldwide.

83. In my view, Professor Ayotte is not a person whose evidence could be tainted or influenced in any way because of the lucrative contract that the laboratory which she heads has with the CCES. Accordingly, I accept her opinion that:

> *"The presence of clenbuterol in the athlete's urine is a sign of an ingestion prior to the test collected out of competition and it is unlikely that the presence of clenbuterol results from the consumption of clenbuterol contaminated meat in Canada considering the facts that (a) the athlete is part of a very limited group of*

15 athletes whose samples have been reported positive in Canada over a period of 22 years, (b) in Canada, clenbuterol is not an authorised medication for humans nor for slaughter animals; the population is therefore not exposed to clenbuterol otherwise than by the illegal acquisition of doping products."

(Emphasis added.)

84. As noted earlier, Professor Ayotte, when she testified, concluded that, in her opinion, "meat contamination was not an option" in the present case.

85. I also have the testimony of Dr. Barroso that it was "highly unlikely" that contaminated meat could explain the presence of Clenbuterol in Taylor Findlay's urine.

86. The conclusions of Mr. Daniel Burgoyne in his amended will-say statement are also relevant. He says that all CFIA tests for Clenbuterol in 2015-2016 in respect of both meat originating from Canada and meat imported in Canada were negative. These statistics, in my view, confirm the assertion of the Canadian Food Inspection Agency that "contamination of meat with Clenbuterol in Canada is not an issue".[7]

87. I note that, at the February hearing, the Athlete's counsel chose not to continue her cross-examination of Mr. Burgoyne on the conclusions set out, at her request, in his amended statement.

88. To counter this evidence and convince me that it is more likely than not that the Clenbuterol entered her body when she ate horse meat in a restaurant near her parents' home shortly before she was tested, is it sufficient for the Athlete to protest her innocence without adducing any actual or concrete evidence to buttress her affirmation?

89. The Athlete's explanation, contrasted with the evidence adduced by the CCES, can only lead me to the conclusion that her theory, while not impossible, is highly improbable.

90. The Athlete, when she testified, made a good impression on me. But the question which I must answer is not whether she has made a good impression on me but rather whether she has proven to me, on the balance of probability standard, that she is innocent.

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[7] See Exhibit 9 to the Affidavit of Kevin Bean, *Notification of Adverse Analytical Funding from the CCES to the CWFHC dated 19 April 2016.*

91. I will now address the impact, if any, of the results of the polygraph examination which I have admitted into the record. Do these results assist the Athlete?

92. The examiner, Mr. Lépine, concluded that Taylor Findlay had answered truthfully "no" to the following questions:

> *"1. In the last 2 years did you purposely used [sic] some Clenbutrol product?*
> *2. In the last 2 years did you knowingly used […] some Clenbutrol product?*
> *3. During the last 2 years did you volontarily [sic] use Clenbutrol product?"*

93. I leave to scientific analysts the interesting debate as to whether we can detect a person's veracity by monitory psychophysiological changes during his/her examination with the use of a "lie detector" test.

94. The central question which arises, in my opinion, and as both parties have agreed, is that it is my responsibility, as sole arbitrator in this case, to determine Taylor Findlay's credibility, having regard to the totality of the evidence before me, including of course her testimony. This I have done and do not need the assistance of Mr. Lépine. Accordingly, I give no weight to his report.

95. In reaching this conclusion, I adopt the conclusion of the *Contador* Panel:

> *"242. (…) [The] Panel takes good note of the fact that the results of the polygraph corroborate Mr. Contador's own assertions, the credibility of which must nonetheless be verified in light of all the other elements of proof adduced."* [8]

96. Unfortunately, on the basis of the totality of the evidence that I have considered very carefully, I am not persuaded that it is more likely than not that the Clenbuterol found in the Athlete's urine did not originate from her intentional consumption of the prohibited substance.

97. While I acknowledge that it is not easy for an Athlete to prove a negative, we are dealing here with a strict liability offense and the Program, as it is presently drafted, leaves me no alternative but to find that her anti-doping violation was intentional.

98. In other words, as I have found that the Athlete, apart from her own words, has not provided me with any concrete evidence of the specific circumstances in which the unintentional ingestion of contaminated meat would have occurred, I can only

[8] *Union Cycliste Internationale (UCI) v Alberto Contador Velasco et al.,* CAS 2011/A/2384, at para. 242.

conclude that her doping violation must be deemed to be intentional. Accordingly, the Athlete cannot invoke Rules 10.4 and 10.5.1 of the Program.

99. Consequently, the full four-year sanction will apply.

VII. THE COMMENCEMENT DATE

100. Since the Athlete voluntarily accepted a provisional suspension on 10 March 2016, the suspension period will commence on this date as provided for under Rule 10.11.3.2 of the Program, and end on 10 March 2020.

VIII. AWARD

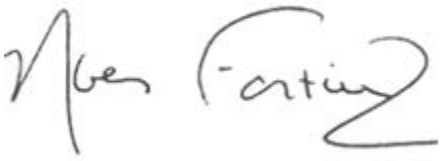
101. The Athlete has committed an anti-doping rule violation in connection with the presence in her urine sample of Clenbuterol, an anabolic agent, which is a Prohibited Substance according to the 2016 WADA Prohibited List.

102. The presumptive sanction for a first anti-doping rule violation for the Presence of a Prohibited Substance in an Athlete's bodily Sample is a period of Ineligibility of four (4) years.

103. In this case, the Athlete has not met the burden of establishing that her anti-doping rule violation was not intentional pursuant to Rule 10.2.3 of the Program.

104. In the circumstances, a period of Ineligibility of four (4) years shall apply, to run from 10 March 2016.

Signed in Montreal this 13th day of March 2017.



The Hon. L. Yves Fortier, QC, sole Arbitrator