

INTERNATIONAL SKATING UNION

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Case No. 05/2012

May 31, 2012

DECISION

of the

ISU Disciplinary Commission

Panel: Volker Waldeck, Chair
Dr. Egbert Schmid
Susan Petricevic

In the matter of

International Skating Union, Chemin de Primrose 2, 1007 Lausanne, Switzerland,
represented by its Legal Advisor, Dr. Béatrice Pfister,

- Complainant -

against

Mr. Mitchell Whitmore, c/o U.S. Speedskating,
5662 South Cougar Lane, Kearns, UT 84118, USA,

- Alleged Offender -

and

U.S. Speedskating,
5662 South Cougar Lane, Kearns, UT 84118, USA,

- Interested Member -

Concerning the alleged violation of the ISU Anti-Doping Rules

I. History of the procedure

On March 27, 2012, the ISU filed a complaint against the Alleged Offender, together with two exhibits. On April 10, 2012 the Alleged Offender and the Interested Member were invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint. Neither the Alleged Offender nor the Interested Member filed a brief.

II. Procedural Matters

According to Article 24, Paragraph 10 of the ISU Constitution 2010 and Article 8.1.1 of the ISU Anti-Doping Rules 2010 the Disciplinary Commission has jurisdiction in anti-doping cases arising out of ISU Testing or Testing at International Events or Competitions. The present case arises out of testing at the Essent ISU World Sprint Speed Skating Championships 2012, i.e. of testing at an ISU International Event. Therefore the ISU Disciplinary Commission has jurisdiction to hear and decide this case.

III. Facts

1. The Alleged Offender is a 22 year old Member of U.S. Speedskating, who competed at the Essent ISU World Sprint Speed Skating Championships 2012 in Calgary on January 28 – 29, 2012.

2. On January 29, 2012 the Alleged Offender was selected for Anti-Doping testing which he first failed to attend, because he had left the ice rink before ensuring that he had not been selected. The Alleged Offender was recalled from the hotel and returned to the rink 30 minutes later where the test was done. The test results were negative.

Evidence: Extract of the Report of ISU Medical Advisor Dr. Joel Shobe, dated January 31, 2012, (Exhibit 1).

3. By letter of March 19, 2012, the Interested ISU Member and the Alleged Offender were informed that the case will be submitted to the ISU Disciplinary Commission.

Evidence: Letter from ISU to U.S. Speedskating, dated March 19, 2012, (Exhibit 2).

IV Motion

The Complainant filed a motion as follows:

1. To find the Alleged Offender guilty of violation of the ISU Anti-Doping Rules.
2. To issue a reprimand against the Alleged Offender.
3. To declare disqualification of the results obtained by the Alleged Offender at the Essent ISU World Sprint Speed Skating Championships 2012 in Calgary on January 28 – 29, 2012.

IV. Law

1. According to Article 2.3.1 of the ISU Anti-Doping Rules leaving the ice rink after the event in which a skater has participated without first ensuring that he or she has not been selected for Anti-Doping testing constitutes an Anti-Doping Rule violation. According to Article 10.3.1 para 2 the sanctions set forth in Article 10.4 shall apply if testing on recall was complied with.

For a first violation Article 10.4 of the ISU Anti-Doping Rules establishes a sanction of at a minimum a reprimand and a maximum of two years' ineligibility.

Generally Article 10.4 of the ISU Anti-Doping Rules deals with cases of adverse analytical findings with respect to specified substances. In the present case no prohibited substance was found in the Alleged Offender's bodily specimen. His only mistake was to leave the ice rink before checking whether he had been selected for Anti-Doping testing. His carelessness is regrettable but cannot be considered as a gross offence against the ISU Anti-Doping Rules. Given that this is the Alleged Offender's first violation a reprimand seems to be the adequate sanction.

2. The disqualification of the results obtained by the Alleged Offender at the Essent ISU World Sprint Speed Skating Championships 2012 is a compelling consequence of this violation of the ISU Anti-Doping Rules according to Article 9 of the ISU Anti-Doping Rules. For the purpose of the ISU Anti-Doping Rules this event has to be considered as one competition, given that it leads to one final result (see definition of "competition", Appendix 1 of the ISU Anti-Doping Rules).

Decision

1. Mitchell Whitmore is declared responsible for an Anti-Doping violation, committed on January 29, 2012 at the Essent ISU World Sprint Speed Skating Championships 2012.
2. Mitchell Whitmore is reprimanded and warned to not engage in similar conduct in the future, which conduct will cause a more severe action.
3. Mitchell Whitmore's competitive results obtained on January 28-29, 2012 at the Essent ISU World Sprint Speed Skating Championships 2012 are disqualified with all the resulting consequences including forfeiture of any medals, points and prizes.
4. U.S. Speedskating has to reimburse the ISU for the costs of these proceedings.
5. The skater bears his own costs.

May 31, 2012



Volker Waldeck



Dr. Egbert Schmid



Susan Petricevic

The decision is sent to Mitchell Whitmore, c./o. U.S. Speedskating, by registered mail against return receipt and to the Interested Member and to the ISU by email.

The present decision is subject to appeal to the Court of Arbitration for Sport, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the decision, in accordance with Article 24 Paragraph 12 and Article 25 of the ISU Constitution 2010.