

NEW ERA ARBITRATION TRIBUNAL

In the Matter of Arbitration Between:

**United States Anti-Doping Agency,
Claimant,**

Case No.: 24052801

v.

**Erriyon Knighton,
Respondent.**

FINAL AWARD OF ARBITRATOR

I. INTRODUCTION

1. Pursuant to the New Era ADR Rules and Procedures, as modified by the Procedures for the Arbitration of Olympic & Paralympic Sport Doping Disputes and the United States Anti-Doping Agency Protocol (“ the Protocol”) (effective as revised January 1, 2024) (“Arbitration Procedures”) as contained in the World Athletics Anti-Doping Rules and World Anti-Doping Code (the “Code”) (collectively known as the “Applicable Rules”), an Expedited evidentiary hearing was held by videoconference on June 14 and 16, 2024, before the duly appointed arbitrator, Jeanne Charles (“the Arbitrator”).
2. This case arises from Erriyon Knighton’s out-of-competition urine sample provided on March 26, 2024, which subsequently tested positive for epitrenbolone, a metabolite of trenbolone. Trenbolone and its metabolites are prohibited substances in the class of anabolic agents on the 2024 WADA Prohibited List.
3. I, THE UNDERSIGNED ARBITRATOR, having been designated, and having been duly sworn, and having duly heard the allegations, arguments, submissions, proofs, and evidence submitted by the Parties do hereby FIND and AWARD as follows:

II. THE PARTIES

4. United States Anti-Doping Agency (“USADA” or “Claimant”) is the independent anti-doping organization, as recognized by the United States Congress, for all Olympic, Paralympic, Pan American and Parapan American sport in the United States with its headquarters in Colorado Springs, Colorado.

USADA is authorized to execute a comprehensive national anti-doping program encompassing testing, results management, education, and research, while also developing programs, policies, and procedures in each of those areas.

5. Erriyon Knighton (“Athlete” or “Respondent”) is a 20-year-old Olympic Track & Field athlete who specializes in the 100 meter and 200-meter sprinting events. He is currently ranked second in the world in the 200m and represented Team USA at the 2020 Tokyo Olympics.¹ Recently, in 2023 Respondent won a silver medal in the 200m event at the 2023 World Championships, and he also won a national championship in the 200m event at the U.S. Outdoor Championships.² Respondent has an active USA Track & Field (“USATF”) membership and has held a membership since 2020.³ Respondent won the bronze medal in the 200 meter at the 2022 World Athletics Championships, making him the youngest ever sprint medalist in the competition’s history.
6. USADA was represented in this proceeding by Jeff T. Cook, Esq., USADA General Counsel and Spencer Crowell, Esq., Counsel, Colorado Springs, CO.
7. Respondent was represented by Mr. Howard Jacobs, Esq., Katy Freeman, Esq. and Roland Wiley, Esq. of the Law Offices of Howard L. Jacob, Westlake Village, CA.
8. USADA and Respondent will be referred to collectively as the “Parties” and individually as a “Party.”

III. ISSUE

9. Respondent does not dispute that he tested positive for epitrenbolone, a metabolite of trenbolone which is prohibited at all times. The Code charges athletes with the responsibility for every substance that enters their bodies. Article 2.1 provides that “*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 Article 2.1.” Thus, the athlete is strictly liable for an anti-doping rule violation (“ADRV”) where the presence of a prohibited substance is found in their samples. Because the presence of a prohibited substance was in Respondent’s samples, there is sufficient proof of an ADVR.

¹ Claimant Exhibit 1 (Respondent’s Competition History).

² *Id.*

³ Claimant Exhibit 2, (Respondent’s USATF Membership History).

10. Accordingly, the central issue before the Arbitrator in this proceeding is the appropriate sanction, if any, to be imposed for the ADRV. Respondent requests a determination of No Fault or Negligence which would eliminate the otherwise applicable period of ineligibility because his positive sample was due to meat contamination that he unknowingly consumed.
11. Claimant requests the imposition of the default period of ineligibility which is four (4) years because Respondent has produced insufficient proof that he was positive for trenbolone due to meat contamination. However, Claimant concedes that if it is determined that the source of the prohibited substance was meat contamination, then No Fault or Negligence would attach, permitting elimination of the default period of ineligibility. In that case, Respondent must prove the source of the presence of the prohibited substance.

IV. JURISDICTION

12. Respondent did not contest that this arbitration is governed, procedurally and substantively, by the USADA Protocol.
13. Pursuant to the applicable arbitration procedures, which are contained in the USADA Protocol, the Arbitrator has the power to rule on her own jurisdiction.
14. No party has objected to the jurisdiction of the Arbitrator or asserted an arbitrability of the claim.
15. Accordingly, the Arbitrator finds this matter is properly before this Sole Arbitrator.

V. PROCEDURAL HISTORY

16. Claimant selected Respondent for testing out-of-competition on March 26, 2024, at his home in Gainesville, Florida.
17. Claimant sent Respondent's sample to the WADA-accredited laboratory in Salt Lake City, Utah, and the laboratory reported an Adverse Analytical Finding ("AAF") for epitrenbolone, the main metabolite of trenbolone.
18. Claimant notified Respondent that his sample tested positive for epitrenbolone on April 12, 2024, and imposed a provisional suspension against him.

19. Respondent requested (through his counsel) testing of his B sample, and on April 30, 2024, Claimant notified Respondent that his B sample confirmed the presence of epitrenbolone.
20. The concentration of trenbolone in both the A and B samples was reported at approximately 1.3 ng/mL, which adjusted for specific gravity is 1.14 ng/mL. In subsequent conversations with Claimant, the laboratory confirmed that for this sample, the uncertainty in measurement is less than 20%. This means that at its lowest concentration, the epitrenbolone in Respondent's sample would be 0.912 ng/mL.
21. By letter dated May 28, 2024, Respondent was charged for presence of epitrenbolone and/or attempted use of trenbolone pursuant to Articles 2.1 and 2.2 of the Code which are incorporated in the Protocol. Respondent (through his counsel) requested an expedited hearing the same day.
22. This proceeding was initiated on May 28, 2024, pursuant to Claimant's request to New Era ADR that an expedited arbitral process be held as it was Respondent's intent to compete in the upcoming USATF Olympic Trials on June 21, 2024.
23. By e-mail contact on May 28, 2024, New Era ADR appointed the undersigned Arbitrator.
24. On May 30, 2024, the Arbitrator held a preliminary hearing with the Parties. On the same day, the Arbitrator issued Scheduling Order No. 1, wherein the Parties agreed to the dates for the submission of pre-hearing briefs, exhibits and designations of witnesses. The hearing dates were June 14 and June 16, 2024.
25. Because it was not disputed that Claimant met its burden of establishing an ADRV, it was agreed that Claimant did not need to submit an initial pre-hearing brief. Instead, Respondent submitted his pre-hearing brief, proposed exhibits and witness designation on June 6, 2024. Then Claimant submitted its pre-hearing brief, proposed exhibits and witness designation on June 11, 2024.
26. Claimant notified the Arbitrator that Tony Jackson, Deputy Head of Case Management, Athletics Integrity Unit for World Athletics and Marissa Sunio, Senior Counsel, WADA exercised a request to attend the evidentiary hearing. Also attending were USOPC Athlete Ombuds Kacie Wallace and Respondent's Agent, John Regis.

27. On June 14, 2024, the Arbitrator held a full evidentiary hearing via video conference at which both Claimant and Respondent were present and were given the opportunity to call witnesses, present evidence, examine and cross-examine witnesses. On June 16, 2024, the parties made closing arguments in support of their respective positions.
28. There was no court reporter as agreed upon by the Parties.
29. Respondent called as witnesses Dr. Anneleen Decloedt, an expert in the field of analytical chemistry and food safety in the veterinary sciences; Prof. Pascal Kintz, Ph.D., an expert in the field of toxicology and analytical chemistry; Prof. Alberto Salomone, Ph.D., an expert in forensic toxicology and analytical chemistry; Ms. Laura Cain, mother of Respondent's girlfriend; Ms. Jaimalyn Ash, Respondent's girlfriend; Ms. Caitlin Whitlock, General Manager at Moreno Bakery; Respondent; and Donald "Craig" Harper, Certified Polygraphist.
30. USADA called as witnesses James Dalton, Ph.D., Executive Vice President and Provost at the University of Alabama and a world renowned pharmacokineticist; Juan de Dios Garza Flores, Ph.D., Consultant for Sukarne and an expert regarding animal nutrition and livestock sciences in Central America; Bradley J. Johnson, Ph.D., Professor in the Department of Animal and Food Sciences, Texas Tech University and member of the Joint FAO/WHO Expert Committee on Food Additives (JECFA).
31. All witnesses testified under oath.
32. The Parties provided oral opening and closing statements, made arguments, and were given the opportunity to raise any issues or argument in support of their respective positions.
33. The Parties chose not to submit post-hearing briefs.
34. The hearing lasted one (1) full day and one (1) partial day.
35. At the conclusion of the evidentiary hearing, the Arbitrator asked the Parties whether they had any additional evidence to offer or witnesses to be heard, as required by the Protocol. The Parties indicated that they did not.
36. However, in response to a press release by WADA coincidentally issued on the first day of the hearing, of which the parties subsequently became aware, the parties submitted a joint letter to Ross Wenzel, Esq., General Counsel, World Anti-Doping Agency requesting information about meat contamination cases that had been closed by WADA without public announcement referenced in

the press release. This Arbitrator was offered the opportunity to include a statement in the joint letter. The parties included the following statement by the Arbitrator: “The timely production of information requested by the parties could be very helpful to my determination of how WADA evaluates athlete fault in meat contamination cases considering the balanced interests of Code enforcement and fairness to the athlete.” A response was requested by June 18, 2024, at 12:00 p.m. Eastern Time.

37. The Arbitrator gave the parties an opportunity to provide a supplement to their respective closing arguments based upon the response received, if any, from WADA.
38. On June 18, the joint letter response from WADA and Respondent’s written supplemental closing was received by the Arbitrator. The record was thereby closed.
39. Because Respondent intended to compete in the USA Track & Field Olympic Trials beginning on June 21, 2024, an operative award was issued on June 19, 2024.

VI. APPLICABLE LAW

A. The Athlete’s Responsibility

40. The World Anti-Doping Code (“Code”) is incorporated into the USADA Protocol. The World Anti-Doping Agency (“WADA”) Prohibited List is also applicable in this matter. Pursuant to the WADA Prohibited List, trenbolone is a non-Specified Substance. Trenbolone and its metabolites are prohibited at all times, in and out of competition.
41. This arbitration is governed, procedurally and substantively, by the USADA Protocol and is applicable to Respondent as a member of USA Track & Field. Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) of the Code proscribes the presence of prohibited substances and applies a strict liability standard, meaning athletes are responsible regardless of fault or knowing use. It states, in relevant part:

2.1.1: It is the Athletes’ personal duty to ensure that no Prohibited Substance enters their bodies. 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 Article 2.1.

42. Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method) of the Code proscribes the use or attempted use of prohibited substances and also applies a strict liability standard. It states, in relevant part:

2.2.1: It is the Athletes' personal duty to ensure that no *Prohibited Substance* enters their bodies 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*. (Emphasis in the original).

B. Burden and Standard of Proof

43. Article 3.1 of the Code provides, in relevant part, that: "The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule violation has occurred." Additionally, Article 3.1 of the Code indicates that:

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, except as provided in Articles 3.2.2 and 3.2.3, the standard of proof shall be by a balance of probability. (Emphasis in original).

C. Sanctions

44. Article 10.2 governs 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 10.5, 10.6 or 10.7:

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.

45. Article 10.2.3 defines an intentional violation. It states:

As used in Article 10.2, the term “intentional” is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an antidoping 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.

46. The period of Ineligibility may be eliminated under Article 10.5., where there is No Fault or Negligence. Article 10.5 states, “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.”

47. No Fault or Negligence is defined in the Appendix 1 of the Code. It states:

The *Athlete* or other *Person’s* establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had *Used* or been administered the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-doping rule. Except in the case of a *Protected Person* or *Recreational Athlete*, for any violation of Article 2.1, the *Athlete* must also

establish how the *Prohibited Substance* entered the *Athlete's* system. (Emphasis in original).

48. Claimant concedes that if this Arbitrator determines this is a meat contamination case, then analysis under the No Fault provision of the Code is proper.
49. Article 10.13 covers the commencement of the Ineligibility period. Where an Athlete is already serving a period of Ineligibility for an anti-doping rule violation, any new period of Ineligibility shall commence on the first day after the current period of Ineligibility has been served. Otherwise, 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.

50. Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an ADRV is covered in Article 10.10. It states:

In addition to the automatic *Disqualification* of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any *Provisional Suspension* or *Ineligibility* period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting *Consequences* including forfeiture of any medals, points and prizes. (Emphasis in original).

51. Pursuant to Article 10.13.2.1, “if a Provisional Suspension is respected by the *Athlete* or other *Person*, then the *Athlete* or other *Person* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed....” (Emphasis in original).
52. However, according to Article 10.13.2.3, no credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension regardless of whether the Athlete elected not to compete or was suspended by a team.

VII. BACKGROUND AND FACTUAL SUMMARY

53. Below is a summary of the relevant facts and allegations based on the Parties’ written and oral submissions, pleadings and evidence adduced during the

pendency of this arbitration proceeding. Additional facts and allegations found in the Parties' submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceeding, this Award only refers to the submissions and evidence necessary to explain the Arbitrator's reasoning. The facts presented or relied upon may differ from one side's or the other's presented version and that is the result of the Arbitrator necessarily having to weigh the presented evidence in providing the basis for and in coming to a decision as to the award.

A. Background/Uncontested Facts

54. Respondent is a 20-year-old Olympic track and field athlete, who specializes in sprinting disciplines. He was born and resides in Florida. At the time of the hearing, he was ranked second in the world in the 200m and has an impressive resume of athletic accomplishments including representing Team USA at the 2020 Tokyo Olympics. Recently, in 2023 Respondent won a silver medal in the 200m event at the 2023 World Championships, and he also won a national championship in the 200m event at the U.S. Outdoor Championships. Respondent has an active USA Track & Field ("USATF") membership and has held a membership since 2020. Because he is an elite-level athlete, Respondent was added to USADA's Registered Testing Pool ("RTP") in 2021, requiring him to file his whereabouts with USADA, so he can more easily be tested out of competition. He remains in the RTP to this day.
55. Respondent has largely refrained from using nutritional supplements. Respondent only recently began using Momentous Essential Protein, which is both National Sanitation Foundation (NSF) and Informed Sport-certified.
56. USADA has provided Respondent anti-doping education each year he was in the RTP. Through the repeated anti-doping education tutorials, USADA educated Respondent that he was responsible for everything that went into his body, the risks posed by supplements, the dangers and consequences of doping, and the prohibited status of various substances. Each tutorial includes an online assessment that all athletes are required to complete with 100% accuracy. And each year, Respondent correctly identified strict liability as the concept that athletes are responsible for everything that goes into their bodies.
57. Respondent was subject to a routine out-of-competition urine test at his home in Gainesville, Florida on March 26, 2024. Respondent submitted to the collection without incident, as he had been selected for testing on numerous occasions and never tested positive for any banned substance. The previous

occasion was on March 1, 2024. After the March 26 test, he was also tested on April 14, 18 and 26, 2024. All these tests were negative.

58. On April 12, 2024, Respondent was notified that his March 26, 2024 urine sample tested positive for epitrenbolone, a metabolite of trenbolone. Trenbolone is classified by the World Anti-Doping Agency Prohibited List as an anabolic agent and, along with its metabolites like epitrenbolone, is a non-specified substance prohibited at all times. Trenbolone is a performance enhancing substance not approved for pharmaceutical use in humans, although it is easily found and obtained on the black market. Trenbolone is available in different forms including injectable (such as trenbolone enanthate) and oral form (such as trenbolone acetate).⁴
59. USADA interviewed Respondent on April 26, 2024 where he explained that he believed his positive test was caused by consuming oxtail from a local restaurant in Brandon, Florida called Moreno Bakery. Respondent explained that he consumed the meal on March 22, but later after being reminded by his girlfriend and her mother, stated that he ate leftovers of the meal on March 23.
60. On May 1, 2024, USADA interviewed Caitlin Whitlock, a manager at the Moreno Bakery. Ms. Whitlock explained that the restaurant sources its oxtail from a distributor called Cheney Brothers based in Florida, and that Cheney Brothers buys oxtail from a supplier based in Mexico called Sukarne.
61. On May 2, 2024, a USADA investigator visited Moreno Bakery and obtained a piece of oxtail from the restaurant for analysis. The investigator also obtained a copy of the purchase receipt for the oxtail meal. spoke to Ms. Whitlock and an assistant manager at the restaurant who explained that the restaurant most recently received a shipment of oxtail on March 20, 2024. The receipt and shipment packaging confirmed the meat came from the Sukarne meat processing facility in Nicaragua.
62. USADA's investigator shipped the meat to Texas Tech University, where the meat was prepared for analysis. The oxtail was then shipped to the WADA-accredited laboratory at UCLA for analysis. The UCLA laboratory's analysis of the meat detected the presence of trenbolone at a concentration of 0.1 ng/g.
63. On May 23, 2024, USADA interviewed Respondent's girlfriend who explained that her mom purchased the oxtail meal for her, but she and Respondent shared the oxtail plate around 7:30 p.m. on March 22. She explained further that Respondent finished the leftovers from the same oxtail plate in the evening on March 23.

⁴ Claimant Exhibit 11, (Dr. Fedoruk Expert Report at ¶ 7).

64. Upon being notified of the AAF, Respondent initiated his own investigation to find the source of the trenbolone. On April 18, 2024, he sent the protein powder to be analyzed by Korva Labs, and the test was negative for trenbolone contamination.
65. Respondent also thoroughly reviewed his meals in the days leading up to the March 26 test. Respondent's representatives subsequently visited Moreno Bakery, who provided photos showing the amount of beef that would have been included in the takeout oxtail meal, which is just over two (2) pounds of beef.
66. On April 18, 2024, Respondent provided hair samples to be tested by Professor Pascal Kintz, the world's leading hair testing expert. Professor Kintz tested Respondent's hair specimens for trenbolone and both hair specimens tested negative.
67. Respondent also voluntarily submitted to a polygraph exam which found him to be truthful in denying that he has ever knowingly used trenbolone.
68. Meanwhile, USADA subsequently informed Respondent (via his counsel) that the oxtail sample from Moreno Bakery tested positive for trenbolone at an estimated concentration of 0.1 ng/g.
69. By letter dated May 28, 2024, USADA charged Respondent with anti-doping rule violations for the presence of and use or attempted use of trenbolone pursuant to Articles 2.1 and 2.2 of the World Anti-Doping Code. In that letter, USADA reminded Respondent that it had imposed a provisional suspension.

B. Testimony

70. Because it is undisputed that Claimant met its burden of establishing an ADRV, Respondent proceeded first with its case to establish that he bore No Fault or Negligence in committing the violation. The summary presented below reflects portions of the testimony presented by the witnesses deemed relevant by the Arbitrator. Additional testimony may appear in the Analysis and Findings section below.

1. *Respondent Witness Testimony*

71. Respondent called Dr. Anneleen Decloedt, Doctor of Veterinary Science, a project lead at Quality Control (Brussels) and a post-doctoral researcher at

Ghent University (Laboratory of Integrative Metabolomics, LIMET) as his first witness. Dr. Decloedt issued a report entered into the record as Respondent Exhibit 42. After reviewing several documents and materials associated with the instant case, she explained that “[i]n meat-producing animals, hormones may be used to promote growth. They increase gains in body weight (muscle formation) and nitrogen retention which can result in a 5 to 10% higher profit for the farmer. (e.g. “Protein Expression Changes in Skeletal Muscle in Response to Growth Promoter Abuse in Beef Cattle”, Stella et al., 2011; “Safety range of boldenone undecylenate injection in beef bulls”, Elsharawy et al., 2019).”

72. Trenbolone is marketed as trenbolone acetate (TBA) or trenbolone enanthate (TBE) and while it has been banned in the European Union, trenbolone acetate as a growth promotor is still widespread in the United States and the majority of South and Central American countries.
73. TBA injection doses can range from 40 mg to 200 mg that can be released into the animal up to 200 days post-implantation.
74. Dr. Decloedt’s report and testimony explained that oxtails are a lower quality muscle tissue or secondary cut of meat. Historically, oxtail came from oxen, but today it is simply the tail of beef cattle of both genders. The tail is removed from the carcass at the base of the spine and the fat is trimmed to 6mm. It is the last two to three tail bones (closer to the end of the tail) that are removed.
75. On May 23, 2024, USADA interviewed Respondent’s girlfriend who explained that her mom purchased the oxtail meal for her, but she and Respondent shared the oxtail plate around 7:30 p.m. on March 22. She explained further that Respondent finished the leftovers from the same oxtail plate in the evening on March 23.
76. Dr. Decloedt explained that although the proper injection site for TBA is the ear of the cattle, some known injection sites are the base of the tail (M. coccygeus) and the gluteal area. Dr. Decloedt referred to experiments with volunteers which have shown that the consumption of meat from hormone treated animals or meat naturally containing anabolic-androgenic steroids (AAS) can lead to the detection of this anabolic steroid or its metabolite(s) in the urine of the person consuming the meat.
77. This type of transfer of steroids from the meat into the urine of the person consuming the meat is most likely to occur in those instances where injection sites or surrounding tissues are processed into meat products. Dr. DeCloedt opined that it is conceivable that Respondent ingested the 19,152 ng of trenbolone mentioned in the Dalton expert report (discussed below) based on

the source of the meat from Sukarne/Nicaragua; the sample actually contained trenbolone and possible relaxed veterinary practices. She also noted that very little sampling of synthetic steroids like trenbolone occurs in the U.S.

78. Professor Pascal Kintz, Ph.D. and Professor Alberto Salomone, Ph.D. of Mittelhausbergen, France jointly issued a report entered into the record as Respondent Exhibit 43. They were asked to provide an opinion regarding the reported concentration of trenbolone in the meat sample in relation to the concentration in Respondent's urine sample. Dr. Kintz is an expert in the field of toxicology and analytical chemistry. Dr. Salomone is an expert in forensic toxicology and analytical chemistry. Dr. Kintz also conducted the hair test analysis entered into the record as Respondent Exhibit 4.
79. During their testimony the methodology for the hair test analysis was explained. Dr. Kintz confirmed Respondent's hair test was negative for trenbolone.
80. The urine analysis report explains how the use of anabolic steroids including trenbolone for doping purposes occurs. It states, in part, "To be effective, anabolic steroids must be taken over repeated periods called 'cycles.' Cycling involves taking multiple doses of steroids over a specific period of time (e.g., four weeks), stopping for a period, and starting again. People who misuse steroids also typically 'stack' the drugs, meaning that they take two or more different anabolic steroids, or mix oral and/or injectable types."⁵ It continues that "[r]egarding trenbolone enanthate, cycles typically last between 8 to 12 weeks. Trenbolone enanthate can be stacked with other compounds for synergistic effects. Commonly used stacks include testosterone, an oral steroid like Dianabol or Anadrol for kickstarting the cycle, and possibly a cutting agent like Winstrol or Anavar for specific goals (<https://cta.unp.edu.py>)."⁶
81. The Kintz and Salomone report also addresses the metabolism window for detection of trenbolone in the urine. It explains that "[t]he main human urinary metabolites of trenbolone include epitrenbolone, epitrenbolone glucuronide and trenbolone glucuronide (De Boer et al, Biol Mass Spectrum, 1991)."⁷ It notes that in a 2015 study involving two (2) male volunteers ages 34 and 37, 25 mg of trenbolone acetate was given orally and epitrenbolone was detectable for 14 days.
82. In a paper by Putz et. al. (2020), a single oral 10 mg dose of trenbolone was given to one (1) male volunteer. Epitrenbolone was detectable for 45 hours and

⁵ Respondent Exhibit 43 at 00259.

⁶ *Id.*

⁷ *Id.* at 00265.

trenbolone was detectable for 21 hours, noting that it was not trenbolone acetate (the marketed version) “which presents a slower rate of body release and thus will enhance the window of detection.”⁸ It was also stated that, “Inter-individual variations in the metabolism of the volunteers of the different studies are a conceivable explanation for deviating results.”⁹

83. Using the 1.1 ng/mL positive urine sample result, the report stated further that it was foreseeable that epitrenbolone could be detected in the Respondent’s sample 72-96 hours after consumption. Additionally, it stated that “the range of concentrations of trenbolone that [Respondent] would have had to consume to be consistent with the adverse analytical finding on 26 March 2024, 3-4 days after the exposure on 22 and 23 March 2024 and the negative test on 14 April 2024, 22 days after the intake of contaminated oxtail, is approximately in the range 0.01 mg – 3 mg.”¹⁰
84. Dr. Kintz challenged the accuracy of the calculations for determining how much trenbolone was detected in Respondent’s urine sample. His report states, “the aforementioned concentration value was obtained with only one calibration point at 2 ng/mL. The accuracy of every quantitative measure relies on: i) the number of calibration points, ii) the calibration range, and iii) the consequent appropriateness of the calibration model (linear or quadratic). If one of these variables is not properly planned, assessed or identified, the accuracy of the results will be largely affected, with errors of up to 100% depending on the concentrations.”¹¹
85. Dr. Kintz concluded that the value of 1.1 ng/mL measured in Respondent’s urine must be considered as a purely semi-quantitative result. As referenced above, Respondent’s experts explained that “the range of concentrations of trenbolone that [Respondent] would have had to consume to be consistent with the adverse analytical finding on 26 March 2024, 3-4 days after the exposure on 22 and 23 March 2024 and the negative test on 14 April 2024, 22 days after the intake of contaminated oxtail, is approximately in the range 0.01 mg – 3 mg.” And further, the report concludes that the concentration of epitrenbolone in Respondent’s urine was small and can be indicative of two (2) different situations:

1. incidental ingestion from a contaminated meat or

⁸ *Id.* at 00266.

⁹ *Id.*

¹⁰ *Id.* at 00268.

¹¹ Respondent Exhibit 43 at 00264. *Citing* (Desharnais, B., Camirand Lemyre, F., Mireault, P., Skinner, C.D., Procedure for the Selection and Validation of a Calibration Model I—Description and Application, *J Anal Toxicol.*41(4):261-268, 2017).

2. tail end elimination following a doping administration

The experts concluded further that Respondent's negative hair tests do not support repetitive administration of trenbolone (i.e., situation #2).

86. The next witness was Caitlin Whitlock, General Manager at Moreno Bakery ("Moreno"). She recalled Laura Cain, Jaimalyn Ash and Respondent coming into the restaurant to obtain a copy of the receipt from the purchase of the oxtail meal. She also recalled USADA's investigator coming in for a copy of the receipt and a sample of the oxtail.
87. Ms. Whitlock testified that the sample provided to USADA's investigator came from a shipment received by Moreno in May. Thus, any reference to the sample being the same as March is incorrect. She stated that USADA's investigator was given a small sample of raw meat weighing less than one-half pound.
88. Ms. Whitlock also confirmed that an order of the oxtails weighs about 1.5-2 lbs. but can vary from order to order. The orders are not weighed. The photo of oxtails entered into the record as Respondent Exhibit 26 showed a little over 2 pounds in an order from Moreno. Ms. Whitlock confirmed that it was representative of what the restaurant serves in a takeout order. Ms. Whitlock also acknowledged that bones are included in the order.
89. Laura Cain lives in Tampa, Florida. She testified that she met Respondent while he was on a track team with her other daughter years before dating her daughter, Jaimalyn. She described Respondent as a very humble kid who is good and focused on his career. Ms. Cain confirmed that she purchased the oxtail on her own initiative on March 22, 2024. The oxtail meal and a cupcake were intended for her daughter, Jaimalyn. She was unaware that Respondent would be visiting that day. She believes he ate it over the weekend because she asked if they liked it the next day while she was away (she left on March 22 to attend an event in Orlando) since this was her first purchase of oxtails from Moreno. Ms. Cain confirmed she obtained the bank receipt after her daughter asked for it about a week or so later.
90. Ms. Cain expressed that she did not believe that Respondent engaged in doping because, in the past, she has tried to offer him medicine when he was sick, sweating and congested but he would not take it.
91. Jaimalyn Ash testified next. She is Respondent's girlfriend. They live together in Gainesville, Florida. On March 22, she and Respondent went to her mother's home in Tampa for the weekend. They arrived separately. Ms. Ash testified Respondent arrived in the evening because he had practice earlier

that day. Ms. Ash arrived early in the day but went to the mall and ran errands. She arrived at her mom's house after 5pm. Text messages entered into the record as Respondent's Exhibit 11 confirm this.

92. Ms. Ash explained that she had never eaten oxtails before meeting Respondent. She and Respondent shared the oxtail meal purchased by her mom, but she ate mostly the side order of rice and gravy. She testified that she ate the cupcake and just "picked at" the oxtails. Ms. Ash testified that only Respondent ate the leftovers on March 23.
93. Ms. Ash testified further that she was with Respondent when she found out he tested positive. She stated that Respondent was in shock, and they immediately tried to figure out where it could have come from. Ms. Ash explained Respondent's world was turned upside down and he did not want to eat. They presumed it must have been contamination.
94. Next, Respondent testified. He explained that beginning in 2022, he resided in Gainesville where his coach was located so he could get consistent training.
95. Respondent confirmed that he has had anti-doping education online and follows the advice from the education. He explained that he does not use regular medications and has only resorted to them when he had surgery or was very sick when younger.
96. Respondent testified that he started using protein powder on or about January 13, 2024, upon the advice of a nutritionist recommended by a sponsor, Red Bull. Respondent testified that he confirmed it was NSF and Informed Sport certified. Respondent testified that even though the product tested negative for trenbolone, he stopped using it after receiving the notice of his positive sample on April 12, 2024.
97. Respondent stated that he was in shock upon learning of the positive results because he had no idea of the source at that time. He explained that he did not know what trenbolone was and he had never knowingly taken any banned substances.
98. Respondent explained that he was not concerned about any testing to include the hair or polygraph tests because he is a clean athlete. When the protein powder came back negative, he was still confused since the powder was the only thing that was different. This triggered an examination of what else he was eating.
99. Respondent testified about his diet in general. He explained that sometimes he gets prepared meals from a chef. The meals prepared by the chef included

chicken, fish, and vegetables. He also eats carry-out and restaurant meals a lot because he is often too tired to cook. He eats oxtail often, in general, because it is a meal he enjoys.

100. Respondent explained that he had originally planned to travel to Miami on the weekend in question to watch his friend play tennis, but the weather was bad. He decided to go to Tampa instead where his girlfriend was visiting her mom.
101. Respondent testified that he ate the oxtail meal purchased by her mom after 6:00 p.m. on March 22, 2024. He recalled that Ms. Ash ate just a small portion. On Saturday, about half of the meal was left and he ate it all.
102. Respondent explained that he had never heard that beef could be contaminated with steroids.
103. Respondent said he has no ill will against USADA because he recognizes that the agency is trying to ensure clean sport.
104. Respondent confirmed that he has not competed since April 12, 2024. This has been stressful because he will have to compete against the best in the world should he be eligible for the Olympic trials starting on June 21, 2024. He believes he has a good chance to make the team as one of the best in America. His goal at the Olympics is to get on the podium and represent his country.
105. Respondent acknowledged that the Rules should apply equally to all athletes and understands he is responsible for what enters his body under the Rules. He acknowledged that he did not declare any supplement use prior to the March 26 test but was taking protein powder at the time.
106. Respondent explained that a four-year ban would hurt him as a person and his image knowing that he did not do anything wrong. Respondent hopes to be a professional runner until his body tells him to stop.
107. Respondent's final witness was D. Craig Harper, a polygraph examiner based in Orlando, Florida. Mr. Harper prepared a report that was entered into the record at Respondent Exhibit 8. The report explains that Respondent's counsel contacted him to have Respondent polygraphed to either verify or disprove the allegation that Respondent had used performance enhancing drugs. The polygraph test took place on May 29, 2024.
108. Mr. Harper testified about, and the report reflects the methodology used during polygraph testing. Mr. Harper explained he has testified about

polygraph test evidence in many court proceedings. In Mr. Harper's opinion, Respondent never knowingly used any form of trenbolone. He confirmed it through a computerized analysis and had another examiner quality control the findings, as well.

2. *Claimant Witness Testimony*

109. James T. Dalton, Ph.D., was Claimant's first witness. Dr. Dalton is currently Executive Vice President and Provost, University of Alabama and a pharmacokineticist. Dr. Dalton prepared a report that was entered into the record as Claimant Exhibit 23. In the report, Dr. Dalton explained:

Pharmacokinetics is the study of changes in drug and metabolite concentrations with time, with the intent to understand drug absorption, distribution, metabolism, and excretion and the relationship of these processes to pharmacological effects, both therapeutic and toxic. A drug's pharmacokinetic and pharmacologic properties are sometimes referred to as its ADMET (absorption, distribution, metabolism, excretion, toxicity) profile. Each drug has its own ADMET characteristics, and these characteristics, along with the amount of drug ingested, determine the presence and effect of a drug and/or its metabolites in plasma, tissues, and excreta (e.g., urine and feces).¹²

110. Dr. Dalton relied upon two (2) studies which he advances provide "reliable pharmacokinetic data in humans..." According to the studies, Dr. Dalton reported that "[a]fter oral ingestion of trenbolone, its metabolites are excreted into urine with an apparent half-life of approximately one day."¹³
111. Dr. Dalton disagreed with the Kintz and Salomone report reflecting a 3-day half-life because it was based on release of trenbolone from the trenbolone acetate implant to justify the long-term detection of trenbolone metabolites in urine. He stated, "This is not appropriate as it represents the half-life of acetate hydrolysis in the implant, and not the urinary excretion half-life (1 day) of free trenbolone when ingested orally."¹⁴

¹² Claimant Exhibit 23 at 2.

¹³ *Id.* at 4-5.

¹⁴ *Id.* at 5.

112. Dr. Dalton testified that his analysis in the report included several assumptions in Respondent's favor in relation to the amount of free trenbolone that Respondent would have had to ingest from the oxtail meal on March 22 and 23 in order to produce a urine sample containing 0.912 ng/mL of epitrenbolone at 5:08 PM on March 26. The assumptions included:
- a. Daily urine output of 1800 mL
 - b. Urinary excretion of 60% of ingested trenbolone as only epitrenbolone.
 - c. Urinary excretion half-life of 1 day for epitrenbolone
 - d. A concentration of 0.912 ng/mL in Respondent's March 26 urine sample. 1.3 ng/mL adjusted for specific gravity (1.14 ng/mL) and then adjusted lower by 20% (0.912 ng/mL) based on laboratory reported uncertainty in the measurement.
 - e. That the entirety of the oxtail meal was consumed on March 23, shortening the time between the meal and his urine sample.
 - f. Only three epitrenbolone half-lives (3 days) between Respondent consuming the entire oxtail meal on March 23.
 - g. The absence of any epitrenbolone in Respondent's urine before he consumed the oxtail meals. His March 1 out-of-competition urine sample was clean.
113. Dr. Dalton concluded in his report that Respondent either consumed: (1) a meal of considerably higher concentration (~38 ng/g) of free trenbolone on March 22-23, (2) a separate dose of free trenbolone of over 19,000 nanograms on March 22-23, or (3) a larger dose of about 100 mg trenbolone acetate on or about March 11.
114. Dr. Dalton acknowledged that if the measure of uncertainty is higher, that would translate to a lower concentration in the urine sample. He also agreed that while he used a urine output of 1800 mL, 1200 mL is also in the normal range for urine output. Dr. Dalton further agreed that it is impossible to know how much trenbolone was in the meat Respondent ate and there are a number of variables that could shift the correlation between the meat concentration and Respondent's urine sample.
115. Next, Bradley J. Johnson, Ph.D. testified. Dr. Johnson is the Gordon W. Davis Regent's Chair in Meat Science and Muscle Biology and a professor in the College of Agricultural Sciences and Natural Resources' Department of Animal and Food Sciences at Texas Tech University. He has also been appointed to the Joint (FAO/WHO) Expert Committee of Food Additives (JECFA) with expertise on the veterinary drug residue platform. He has

previously testified about the use of steroids including trenbolone in the meat industry.

116. Dr. Johnson prepared a report that was entered into the record as Claimant Exhibit 12. In the report he responds to USADA's request to opine on the likelihood of trenbolone residues in edible beef oxtail causing an adverse epitrenbolone event in an athlete.
117. According to Dr. Johnson, "anabolic steroids have been widely used in the beef cattle industry for over 65 years as safe and effective growth-promoting agents, and today, more than 90% of all feedlot cattle in the United States receive some type of steroidal implant during their lifetime."¹⁵
118. Dr. Johnson explained that the synthetically produced trenbolone acetate (TBA) was approved by the United States Food and Drug Administration (FDA) in 1987. Implants of this substance are made of compressed pellets which are injected subcutaneously in the middle third of the back of the cattle's ear.
119. There are Maximum Residue Levels (MRL) for different tissues in animals that have been administered TBA. The U.S. FDA first set the MRL for muscle in cattle administered TBA at 50 ppb (ng/g). These levels were lowered in 1988 to 2 ppb (ng/g) in muscle.
120. The administration of the pellets in the back of the ear ensures that no pellets will enter the food chain since ears are removed from animals early in the harvest process and are not used for human consumption. These implants are allowed to "payout" for over 100 days in feedlot cattle. Use of androgenic compounds like TBA promotes lean tissue accretion as compared to adipose tissue (e.g., fat).
121. Dr. Johnson testified that he is familiar with Sukarne, the company where the oxtail meat served by Moreno was sourced. His report indicates the beef oxtail was imported via a Florida-based distributor, Cheney Brothers, from Ganderia Integral Nicaragua based in Nicaragua. Ganderia Integral Nicaragua is owned by Sukarne, a large Mexican beef producer. Sukarne is a major exporter of beef to the U. S.
122. Dr. Johnson testified that it is highly likely that cattle reared in feedlots in Nicaragua will receive two (2) 200 mg TBA-containing implants during a 120 to 150-day period. The application of these two (2) implants is consistent with

¹⁵ *Citing Johnson and Beckett (2014).*

the 0.1 ng/g residue of 17 β -trenbolone¹⁶ observed in the oxtail sample from Moreno.

123. Johnson acknowledged that he is an advocate for the practices of the American meat industry.
124. Regarding the oxtail analysis, Dr. Johnson testified that he has only seen the findings stated in the oxtail tissue analysis report¹⁷, not the underlying results. His lab received the meat sample and prepared it for sending to UCLA by converting it to a powder form. Dr. Johnson stated that he has not seen any of the UCLA laboratory documentation. He assumed it was accurate based on the LC-MS test used. He was aware the sample was from a different shipment and agreed it is not known what level was actually in the meat Respondent consumed.
125. Dr. Johnson explained the United States Department of Agriculture's Food Safety and Inspection Service (USDA/FSIS) monitors levels of various residues in tissues such as muscle and liver. These results are published in the FSIS National Residue Program Red Book (USDA/FSIS, 2015). The Red Book is published every two (2) years and outlines the results of random drug testing of meat products. The cutoff for these residue tests for 17 β -trenbolone are 10 ppb (ng/g) in liver and 2 ppb (ng/g) for muscle. However, he acknowledged that The Red Book is a statistically random sampling and small representation of the meat imported.
126. Dr. Johnson also acknowledged that since 2008, there has barely been testing for trenbolone because it is not on anyone's radar in the United States.
127. Juan de Dios Garza, Ph.D. has 27 years of experience in research in the animal nutrition department of the National Animal Husbandry Research institute conducting different beef cattle nutritional experiments. He is also a paid consultant for Sukane. Dr. Garza issued a report that was entered into the record as Claimant Exhibit 13. He noted that as part of its production process, Sukarne uses not only the most advanced technologies to improve productivity, but also technologies that are safe for the environment and do not represent a hazard to consumer health. Among the technologies that have the best return rates in feedlots are the anabolic implants since they improve daily weight gain and feed conversion, causing production costs to be reduced.
128. Dr. Garza confirmed that the use of anabolic agents such as trenbolone acetate in beef cattle fattening is a widespread practice, as these compounds are a valuable tool to improve cattle productivity and feed efficiency. He noted that

¹⁶ Trenbolone acetate is converted to 17 Beta trenbolone which is called "free trenbolone."

¹⁷ Respondent Exhibit 13.

multiple injections can be administered including trenbolone and pellets can be misplaced. His testimony was that Sukarne follows all regulations regarding the injection of steroids like trenbolone, including not injecting cattle in any body part except the ear.

129. Upon questioning about a crime report naming Sukarne as a company that was discussed in a May 2022 investigation by InSight Crime, a non-profit think tank and media organization that specializes in investigating and analyzing organized crime in Latin America and the Caribbean, Dr. Garza stated he had not heard of the report. Later, Dr. Garza testified that he reviewed the article in preparation for a report he was preparing. The report raises the possibility of Sukarne being a purchaser of trafficked and pre-fattened cattle. Dr. Garza testified that he never discussed the article with his Sukarne contacts.
130. Claimant's final witness was Vinod Nair, Ph.D. He is the Associate Laboratory Director at the Sports Medicine and Research Testing Laboratory (SMRTL) in Salt Lake City, Utah and has a doctorate in Health Sciences. Dr. Nair explained the process used to conduct the urine sample test and stated that it was in conformance with WADA standards. He reported that the concentration of epitrenbolone was 1.3 ng/mL in Respondent's A sample and 1.26 ng/mL in the B sample.
131. Dr. Nair testified that he has a high degree of confidence in the urine testing results. He designated the 20% uncertainty in measurement figure which represents the amount of confidence that can be assigned to the test.
132. He explained that in a recent case regarding a rugby player, he used a 50% uncertainty in measurement figure at the direction of the arbitration panel in that case. Dr. Nair stated that 50% is the maximum uncertainty in measurement figure that can be used.
133. Dr. Nair agreed that a quantitative test is required for threshold substances like marijuana where a precise concentration figure is required. Dr. Nair acknowledged the method used in the instant case was a semi-quantitative test.

VIII. POSITIONS OF THE PARTIES

A. Claimant's Position

134. Claimant argues that Respondent's explanation that his positive test was caused by contaminated oxtail meat eaten 3-4 days before sample collection is entirely unsupported by both the factual and scientific evidence. Therefore, he

cannot meet his burden of proving the source of his AAF, and he does not qualify for an eliminated period of ineligibility based on No Fault or Negligence under the rules.

135. Claimant contends that based on CAS jurisprudence, the concentration in the athlete's sample must correlate with the expected dose conferred by the alleged source. It is argued that Respondent cannot establish this critical causal link between the oxtail he consumed on March 22-23 and his positive test for epitrenbolone on March 26, 2024, for several reasons.
136. First, Claimant notes that the sample of two (2) oxtail tissues from the restaurant reported the presence of trenbolone at approximately 0.1 ng/g a "miniscule" concentration which is below the MRL of 2ng/g set by the USDA.
137. Second, the amount of the detected trenbolone did not correlate to the science regarding metabolism in humans. Claimant urges that Respondent's consumption of oxtail so long before sample collection does not account for the concentration of epitrenbolone in his sample.
138. Finally, Respondent's circumstances are highly distinguishable from other CAS meat contamination cases finding No Fault. Respondent has not provided the requisite concrete evidence to establish unintentional use.
139. Accordingly, Claimant submits that the appropriate sanction in this case is a 4-year period of ineligibility beginning April 12, 2024, and the disqualification of any competitive results on and after March 26, 2024.

B. Respondent's Position

140. Respondent argues that it is impossible to prove the origin of the prohibited substance with scientific certainty. Nor does the Code require an athlete to do such.
141. Respondent emphasizes that the plain language of Article 10.5 of the Code does not require Respondent to prove that the amount of epitrenbolone in the contaminated oxtail precisely and mathematically correlates with the amount of trenbolone found in the March 26, 2024 sample to meet his burden of proving No Fault or Negligence. Rather, the Code only requires that Respondent prove (on a balance of probability) how epitrenbolone entered his system.

142. Respondent argues further that the meat contamination cases do not require the athlete to prove by a mathematical certainty that contaminated meat was the source of entry. In fact, several cases found the athlete was not at fault where no meat testing occurred, unlike in Respondent's case.
143. Moreover, even if such proof was required, in this case, there are too many variables that make the results USADA relies upon sufficient to conclude Respondent failed to meet his burden.
144. Specifically, a quantitative test was not used. The actual meat Respondent ate was not tested. There is little known about the testing method that validated the amount of trenbolone in the Moreno samples including the chain of custody. Thus, this cannot be relied upon as an accurate measurement.
145. Respondent argues the Arbitrator is being asked to make conclusions based on imprecise measurements. Thus, it is not possible for the athlete to meet the burden because all agree there is no way to know what quantity of trenbolone was in the meat Respondent ate.
146. Respondent had no reason to believe that the oxtail he was consuming from Moreno contained the prohibited substance trenbolone.
147. Because Respondent has proven how trenbolone entered his system, then consistent with case law, a finding of No Fault or Negligence under Art. 10.5 of the WADA Code is required.

IX. ANALYSIS AND FINDINGS

148. As Claimant points out in its pre-hearing brief, this case boils down to whether Respondent has met his burden based on the evidence he has proffered. Respondent agrees. Therefore, this case will be analyzed on this basis.

A. Respondent Committed the Anti-Doping Rule Violations Alleged in the Charge Letter Dated May 28, 2024.

149. Respondent does not dispute that he tested positive for epitrenbolone, a metabolite of trenbolone and which is prohibited at all times. The Code charges athletes with the responsibility for every substance that enters their bodies. Article 2.1 provides that "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 Article 2.1." Likewise, Article 2.2 states, it is the Athletes' personal duty to ensure that no *Prohibited Substance* enters their bodies. The Athlete is strictly liable under both provisions of the Code where the presence of a prohibited substance is found in their samples. Because the presence of a prohibited substance was in Respondent's samples, Claimant has met its burden of proof that an ADRV occurred, as charged under Articles 2.1 and 2.2.

B. Respondent Met His Burden of Proving He had No Fault or Negligence for the Prohibited Substance in His System

150. To successfully avail himself of the No Fault or Negligence defense, Respondent must show he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had used or been administered trenbolone. Additionally, he must establish how the substance entered his body or provide proof of source. (See Appendix 1 of the Code). The standard of proof shall be by a balance of probability or in other words, by a preponderance of the evidence.

1. Respondent's Knowledge and Exercise of Caution

151. There is no evidence that Respondent was aware the oxtails contained a prohibited substance. Respondent testified credibly that he was not aware that steroids were in meat. His meal logs reveal that he eats beef routinely without any adverse findings in his samples that would trigger notice that beef contained steroids. The meal was not even intended for his consumption. He ate a meal that had been purchased for his girlfriend by her mother. Unlike supplements, the Code does not provide specific warnings about the consumption of meat. There is no evidence that with the utmost caution Respondent would have known the meat was contaminated. Therefore, it is concluded that Respondent could not have reasonably known that the oxtail meal was contaminated.

2. Proof of Source

152. The Code's language defining No Fault states that for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered the Athlete's system.
153. Claimant argues that this language should be interpreted to mean that where the concentration of prohibited substance in an athlete's sample does not

correlate with the alleged source, the No Fault defense is unavailable. Claimant urges that a long line of cases support its position. See *WADA v. SAIDS & Pena*, (CAS 2017/A/5260)(Sole arbitrator holding that the athlete be deemed ineligible for a period of four years where he tested positive for exogenous testosterone but claimed it was not intentional because his supplements were contaminated. The arbitrator determined it was unlikely that AAF was caused by the prolonged intake of 10.6 mcg of Androstenedione, rather than by the intake of a larger dose of testosterone or one of its precursors.); *Coston v. SAIDS*, (CAS 2018/A/5695) (Arbitrator declared Coston ineligible for a period of 2 years where no scientific evidence was adduced to explain whether the reported concentration of the substance in the athlete's system (approximately 69 ng/ml) would or could have resulted from a family member's mixing of his supplements); *Puerta v. UCI*, (CAS 2021/A/7628)(Panel could not rule out other routes of ingestion like intentional oral intake of boldenone which the Panel believed to be the most probable scenario); *World Athletics v. Shange*, (CAS 2021/O/8111) (Panel sanctioned Athlete with 4-year period of ineligibility, where it was not persuaded by the athlete's illicit injection of cattle theory and provided no other substantive evidence to meet his burden); *WADA v. RUSADA & Valieva*, (CAS 2023/A/9456) (Panel found Athlete to have committed an anti-doping rule violation and imposed 4 years ineligibility where the Panel was not persuaded by the "grandfather theory" of mixing medications); and *USADA v. McMahan* (2023082101) (Panel found athlete did not meet her burden of proof where the substance had never shown up in any supplement or food product available in the U.S. but was available in Europe where she was located at the time).

154. Therefore, it is argued, this Sole Arbitrator is required to follow these above-referenced tribunals and conclude that Respondent did not prove that the level of epitrenbolone detected in his sample was caused by his consumption of oxtails 3-4 days prior to testing.
155. On the other hand, Respondent argues that the plain language of the Code does not require an athlete to prove that the amount of prohibited substance in the contaminated meat precisely match the concentration of the prohibited substance found in the athlete's sample. Additionally, such a burden in a meat contamination case would be practically impossible to meet, as it would require the testing of a cut of meat already ingested by the Athlete.
156. Respondent also cites several cases to support its contention. See, *USADA v. Hardy*, (CAS 2009/A/1870) (Holding that a AAA arbitration panel's award finding once the source of the contaminated product was determined, the athlete bore no further burden of proof regarding the quantity in the product and concentration levels in her urine sample.); *FISA v. Arriago-Gomez* (2015),

(Judicial award from the FISA Doping Hearing Panel finding athlete bore no fault where athlete ate meat two days before testing, had tested negative 14 days prior and found to be credible in his testimony); *UCI v. Contador*, (CAS2011/A/2384) (Panel finding that athlete need only show meat contamination was possible and other sources were nonexistent or less likely); *ITF v. Farah* (2019), (Decision of the International Tennis Federation where athlete established he consumed meat sourced from a country known to use unregulated boldenone); *ITF v. Valle* (2019), (Decision of the International Tennis Federation finding athlete bore no fault after testing positive for epitrenbolone where meat was not tested but was obtained from a restaurant that sourced its meat from Mexico where trenbolone is injected into cattle); *Lawson v. IAAF*, (CAS 2019/A/6313) (Panel found athlete was not at fault where he consumed meat and was not able to determine with scientific certainty the extent to which the meat he consumed was contaminated); and *UWW v. Nathan Dyamin Jackson* (CAS 2022/ADD/46) (Sole arbitrator relied on the circumstances and athlete's behavior to determine he bore no fault for positive test in a meat contamination case).

157. This Arbitrator has read and considered all the cases referenced above. It is noted that most of Claimant's cases are distinguishable from the instant case because they deal with contamination of supplements. The Code provides a special warning to athletes regarding the use of supplements. In the comment to Article 10.5 it states, "No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1) and have been warned against the possibility of supplement contamination)."
158. The instant case concerns contamination of meat. No such warning exists in the Code regarding the ingestion of meat. In meat contamination cases, while various arbitral panels including CAS panels have looked to the correlation between the claimed source and the level detected, it is not the sole factor considered in determining whether an athlete has established No Fault or Negligence for an AAF.
159. Several cases provide guidance. In *FISA v. Arriago-Gomez*, the Athlete was tested for prohibited substances twice within a 14-day period. The first sample provided by the Athlete at the initial competition was negative for the banned substance, boldenone. Subsequently, the Athlete tested positive for boldenone 14 days later. The athlete's positive sample contained 4ng/mL. Based on expert testimony, the Panel concluded that the ingestion of the substance occurred within the 14-day period by the Athlete's consumption of contaminated meat caused by the poorly regulated use of boldenone in animals in Mexico. The Panel found the witness to be truthful and concluded

that the athlete unknowingly consuming contaminated meat does not rise to the level of fault or negligence on the athlete's behalf. Therefore, the Panel found no period of ineligibility would apply to the athlete.

160. Similarly, in the 2019 case of *ITF v. Farah*, the Player's urine sample produced a positive result for boldenone at a concentration level of 1.2 ng/mL and for a metabolite of boldenone at a concentration level of 1.8 ng/mL. Initially, the WADA laboratory reported an atypical finding then consulted the ITF, which asked the laboratory to conduct GC/C/IRMS analysis on the sample to try to determine (notwithstanding the low concentrations) whether the boldenone and boldenone metabolites detected in the sample were endogenous or exogenous. The laboratory was able to confirm that they were exogenous, and therefore reported the results as an AAF. After further investigation and through sworn witness statements, the ITF accepted that the player ingested contaminated beef that was purchased, prepared, and served by his mother prior to the urine sample being collected. In this instance, it had become widespread that the cattle in Colombia was contaminated with boldenone and the Colombian Olympic Committee released a statement regarding the contamination of the beef and the applicable consequences for athletes pursuant to the anti-doping rules. ITF found that the player's ingestion of the contaminated beef was not intentional. For these reasons, the ITF only imposed a 2-year period of ineligibility.
161. Additionally, in *ITF v. Valle*, the player was very diligent in upholding her status as a "clean" player by taking the utmost precautions. The player's urine sample provided at the event reported positive for epitrenbolone at an estimated contraction level of 0.6 ng/mL in 2018. After inspecting a list of food the player consumed prior to the positive result, it was revealed that the player had consumed contaminated beef from a buffet at a hotel restaurant during an event organized by her team the day before the competition and the day before she provided the urine sample. No testing of any meat occurred.
162. The expert witness concluded that the low level of trenbolone found in her urine was consistent with the approximate 600g of beef the player ate at the restaurant. Based on the facts and findings of the expert witnesses, the ITF found that a No Fault or Negligence determination is consistent with other decisions rendered where meat was the source of a positive urine sample. The ITF determined that the period of ineligibility was to be entirely eliminated for the player's violation.

163. Finally, in *Lawson v. IAAF*, a 2019 CAS decision, the Appellant was a professional American track and field athlete who provided an out of competition urine sample approximately 19 hours after he ate a teriyaki beef bowl at a restaurant. The A Sample for the presence of epitrenbolone detected was in the concentration amount of 0.65 ng/mL and his B Sample was 0.80 ng/mL. To prove his explanation, the athlete provided evidence of his consumption of the meat by producing the restaurant receipt, bank records to prove the purchase, hair analysis results, an expert report, pictures of the packaged meat received by the restaurant, and an affidavit from the restaurant's agent confirming the source of the meat. The Disciplinary Tribunal had imposed a consequence of a 4-year ineligibility period, which was appealed by the Athlete. The CAS Appellate decision determined:

The state of the relevant science as presented to the Panel, combined with the totality of the other evidence, viewed with common sense and bolstered by the Athlete's credibility, opened up the corridor for him to establish his lack of intentionality without concretely proving the origin of the tiny amount of Epitrenbolone found in his [urine]. No one could quantify by science the percentage likelihood that the particular steak that he consumed, from the longissimus muscle, contained hormone residues from the implant in the particular cattle, details of which are not available, or the consequent likelihood that the quantity of Trenbolone in that steak caused his ADRV....¹⁸

164. In conclusion, the appellate tribunal found that it was reasonably plausible that the positive urine sample was from the innocent consumption of contaminated beef and the Panel unanimously decided the athlete discharged the burden incumbent on him to establish No Fault or Negligence for his positive urine sample. The appellant's sanction of ineligibility was eliminated by the Panel.
165. What these meat contamination cases demonstrate, on balance, is that arbitral panels look at the totality of the circumstances to include concentration levels in a urine sample as part of weighing the evidence and balancing the likelihood that contaminated meat was the source of the prohibited substance. However, it is noted that particular weight is placed on concentration levels where the other considerations do not support the athlete's theory of source.

¹⁸ *Lawson v. IAAF* at 12-13.

166. For example, in *World Athletics v. Shange*, the athlete's urine sample contained .4ng/mL of epitrenbolone. The athlete advanced the theory that he consumed 800g of beef just hours before testing. The Athlete did not testify and *did not provide any other evidence*, such as hair samples, source of the beef, and witness testimony to substantiate his claim of meat contamination. Under these circumstances, the Panel was not persuaded by the illicit injection of cattle theory and placed emphasis on the scientific evidence related to his urine sample.
167. Likewise, in *WADA v. RUSADA & Valieva*, the "grandfather theory" was found to be unpersuasive to the panel. In that case, the athlete claimed her AAF result with a concentration level of 2.1 ng/mL of Trimetazidine ("TMZ") was caused by contamination of the drugs used in her inner circle through the use of shared dishes between the athlete and her grandfather. The appellate review of the case determined the applicable standard of proof is the balance of probabilities as opposed to one of "reasonable possibility" which was used by the lower authority.
168. The Panel's final decision stated that sabotage, contamination of medication or supplement, and inadvertent use by ingestion as a result of domestic contamination had no evidentiary basis and was entirely unsubstantiated because no evidence was provided by the athlete to even show that her grandfather ever used any medication with TMZ in its composition. Therefore, the evidence provided by the athlete could not be sufficient for a Panel to be satisfied upon a balance of probabilities that the Athlete's explanation was the cause of her positive result. Ultimately, the decision of the lower disciplinary body was set aside, and the athlete was found to have committed an anti-doping rule violation. She was sanctioned with a 4-year period of ineligibility along with disqualification and forfeiture of all competitive results during the period of her infraction.
169. The Sole Arbitrator in the *United World Wrestling (UWW) v. Nathan Dyamin Jackson* case provides a sound framework for analyzing proof of source. Recognizing, as all cases do in matters of meat contamination, that there can be no direct evidence of the concentration of a prohibited substance in the meat consumed, the arbitrator stated, "the athlete has to demonstrate on the basis of the objective circumstances of the ADRV and his behaviour, that circumstances existed which counteract to a sufficient degree, the likelihood of intentional doping."¹⁹ Additionally, the athlete must "offer persuasive evidence that the explanation he proffers is more likely than not to be correct, by providing specific, objective and persuasive evidence in support of his submission..." This evidence should include both scientific evidence and

¹⁹ *Nathan Dyamin Jackson* at 1.

expertise as well as other factors that ”contribute to the general circumstances of the case.”²⁰

170. This Arbitrator will therefore examine whether in view of all the parties’ submissions and evidence whether (1) Respondent has provided sufficient evidence to counteract the conclusion that the source of the prohibited substance was due to intentional doping and (2) on the basis of scientific and other evidence his proffered explanation is more likely than not correct.

a. There is Sufficient Evidence to Establish No Intentional Doping

171. Respondent has provided sufficient evidence to establish there was no intentional doping. The amount in Respondent’s sample was low. If attempting to support an intentional doping theory based on Respondent’s urine sample, the record evidence suggests three possible scenarios: (1) he was at the tail end of a doping cycle; (2) he took a single dose of 100 mg of trenbolone acetate on March 11, 2024; or he was micro-dosing the prohibited substance.

172. Dr. Dalton, Claimant’s expert, stated that “[t]he consumption of meat containing trenbolone at a concentration of 2 ng/g would not explain [Respondent’s] urine result. Consumption of such a meal would produce a urinary concentration of epitrenbolone almost 20-fold lower than observed in his March 26 urine sample.”²¹ His conclusion as it relates to an intentional doping theory was that a dose of about 100 mg of trenbolone acetate on or about March 11 would explain the result.

173. Drs. Kintz’ and Salomone’s conclusions were that the concentration of epitrenbolone in Respondent’s urine as it relates to intentional doping is that it could be indicative of the tail end elimination following a doping administration. However, they noted that “[t]he negative hair tests of [Respondent] do not support repetitive administration of trenbolone.”²²

174. Dr. Kintz noted in his hair test report and provided un rebutted testimony that also noted that that single dose of trenbolone has no benefit. Specifically, he stated in the report that “Long-term abuse of trenbolone is the pharmacological basis with anabolic steroids to observe benefit, so a single exposure will not produce any noticeable effect.”²³

²⁰ *Id.*

²¹ Claimant Exhibit 23 at 6.

²² Respondent Exhibit 43 at 00270.

²³ Respondent Exhibit 4 at 00016.

175. Despite Dr. Matthew N. Fedoruk's mention of a study involving micro-doses of trenbolone in his report entered into the record as Claimant Exhibit 11, there is no concrete evidence in the record that athletes micro-dose trenbolone or that there would be any benefit from micro-dosing it. In *ITF v. Valle*, where there was a No Fault finding concerning the athlete's ingestion of meat contaminated with trenbolone, the ITF relied on an expert who confirmed that there is no evidence that athletes micro-dose trenbolone or that any benefit can be obtained from doing so.²⁴ Separately, there is no evidence that Respondent micro-dosed trenbolone.

176. In sum, Respondent has provided sufficient evidence to counteract the conclusion that the source of the prohibited substance was due to intentional doping.

b. Respondent's Explanation is Supported by Sufficient Evidence

i. The Scientific Evidence

177. As referenced above, the athlete must "offer persuasive evidence that the explanation he proffers is more likely than not to be correct, by providing specific, objective and persuasive evidence in support of his submission..." Respondent's explanation is simple: He ate a meal of oxtails purchased by his girlfriend's mom from a restaurant that served oxtails contaminated with trenbolone.

178. As an initial matter, what is known is that there is a direct connection between the oxtail Respondent consumed and the oxtail served at Moreno Bakery where it was purchased. The irrefutable evidence is that the oxtail served by Moreno contains trenbolone. Respondent tested positive for epitrenbolone, a metabolite of trenbolone. This is significantly more evidence than what was available in other meat contamination cases where the athlete was found to have No Fault or Negligence. Thus, it is reasonably concluded that Respondent ingested meat contaminated with trenbolone.

179. What is unknown is the amount of the prohibited substance contained in the meat Respondent ingested. Claimant advances the argument that the window of time between ingestion and testing is too wide to explain Respondent's concentration of epitrenbolone in his sample. Despite Dr. Johnson's conviction that it could be no more than 2ng/g since that is the legal MRL, the record is clear that trenbolone has not been regularly tested in meat imported into the U.S. since 2008. Dr. Johnson admitted that trenbolone is not on anyone's

²⁴ See, *ITF v. Valle* at 3.

radar in the U.S. Thus, it would be unreasonable to disregard the likelihood that the meat Respondent consumed could have had a higher MRL than 2 ng/g which would in turn produce a higher concentration in his urine.

180. Next, the scientific evidence relied upon by Claimant does not remove the possibility of meat contamination. The testimony of Dr. Dalton revealed that if variables in the calculations were altered to other acceptable measures (i.e. meat sample concentration, urine volume, uncertainty in measurement variable, etc.) the gap between the meat concentration and urine concentration becomes smaller and the ultimate conclusion would be different.
181. Furthermore, there is limited data on how quickly trenbolone in its various forms is metabolized. The studies referenced in the expert reports cited by both sides involved 1-3 male individuals. Such does not provide persuasive evidence that it was not possible for Respondent to have .912 ng of the metabolite epitrenbolone 3-4 days after consuming the meat. Respondent's experts provided credible evidence that the window of metabolism could be three (3) days.
182. Other panels have found meat contamination as the source with higher levels of a Prohibited Substance within days of consumption and no testing of any meat. *See, UWW v. Dyamin Jackson* (The athlete's sample contained 4ng/g while in competition after consuming a hamburger the day prior. However, the actual source of the meat used in the hamburger could not be identified.)
183. Finally, the test used to confirm the quantities was a semi-quantitative test which experts on both sides agree is less accurate. Thus, the scientific evidence in this case does not dispel the conclusion that Respondent ate contaminated meat. To the contrary, it is persuasive that he did eat contaminated meat which resulted in his AAF.

ii. The Other Factors

184. In this case, Claimant relies primarily on the calculations of metabolized trenbolone related to Respondent's sample. Arbitration and disciplinary panels have looked to factors beyond scientific evidence in determining whether it was more likely than not that the source of a prohibited substance was meat contamination. Disciplinary tribunals have even found that athletes proved "source" without directly or concretely proving that the meat consumed was contaminated. In each of these cases, proof of source was established

through indirect or circumstantial evidence and the athletes' sanctions were found to bear No Fault or Negligence.²⁵

185. The panels rely on probabilities given the full context of all the facts and circumstances present and not exact calculations based on one aspect of the case to determine whether an athlete is at fault. Panels must evaluate an athlete's explanation "in light of [all] the evidence adduced."²⁶
186. In *ITF v. Valle*, the athlete's evidence included official government documents confirming that the administration of trenbolone in cattle is specifically permitted in Mexico; a list of the food she ate in the days leading to the sample collection; and a hair analysis that tested negative for the presence of trenbolone. The tribunal found that the athlete bore No Fault or Negligence because she was not aware that the meat she ate could be contaminated.
187. In the instant case, like in *Valle*, Respondent provided a hair analysis that tested negative for the presence of trenbolone during the period preceding and following his positive sample. Also, like the athlete in *Valle*, Respondent has provided competent evidence confirming that the administration of trenbolone to cattle is specifically permitted in both the United States and Mexico. And most significantly, trenbolone was found in a meat sample from the same restaurant from which his meat came.
188. In *Lawson*, the CAS Panel found that, based on evidence such as bank records, receipts, and text exchanges from the Athlete demonstrating that he ate a teriyaki bowl in the days leading up to his positive test for trenbolone; a hair test that produced no positive results for trenbolone covering the time period during which the Athlete ate the beef; the Athlete's doping history and attitude to clean sport; as well as polygraph evidence, the Panel accepted the athlete's explanation that he consumed beef which, on the balance of probabilities, was contaminated with trenbolone. The Panel decided to eliminate his period of ineligibility, finding that the athlete discharged his burden to establish that he bore No Fault or Negligence for his positive finding.
189. Here, like the athlete in *Lawson*, Respondent has produced bank statements, receipts, and text exchanges demonstrating that he consumed oxtail from Moreno Bakery in the days leading up to his positive test. Additionally, the general manager from Moreno Bakery testified credibly that restaurant records and security footage confirm that Respondent's party ordered and picked up an oxtail meal on the date claimed. The restaurant has also provided their own purchase receipts which confirm that the oxtail consumed

²⁵ See, *ITF v. Farah*; *ITF v. Valle*; *FISA v. Arriaga-Gomez*; and *UWW v. Dyamin Jackson*.

²⁶ *UCI v. Contador*, (2011) at 56.

by Respondent was sourced from Sukarne, a Mexican meat company known to use substances like trenbolone.

190. In determining whether to consider the Athlete's testing history, the *Lawson* panel noted that while not determinative, the athlete's testimony, approach to training and attitude toward clean sport were considered as relevant.
191. Also, like the athlete in *Lawson*, Respondent, has been tested 62 times, including twice after his positive test, and (other than the AAF at issue) has a clean testing history. Aside from occasionally using a protein powder recently suggested by a new nutritionist and which was NSF and Informed Sport-Certified, Respondent has never used nutritional supplements. Credible testimony about Respondent's restraint in using supplements or any medications support the conclusion that he has a commitment to clean sport.
192. Finally, like the athlete in *Lawson*, Respondent initiated and received hair testing and polygraph testing, both of which strongly indicate that he did not intentionally ingest trenbolone.
193. When all the evidence adduced is taken into consideration it must necessarily follow, based on a balance of probabilities, that contamination came from the meat purchased from Moreno Bakery as the source of the trenbolone in Respondent's sample.
194. Claimant argued strenuously that it disagreed with the *Lawson* panel's reasoning finding that the athlete bore No Fault or Negligence and that this Arbitrator should not follow it. As to the legal reasoning, Claimant argues that the Panel in *Lawson* erred because it disregarded the plain language in the Code that requires athletes to establish, *inter alia*, the source of their positive test. Second, the Panel ignored evidence that the meat the athlete consumed very likely did not contain sufficient levels of the prohibited substance to cause the positive test. Third, the Panel credited factors that CAS panels have routinely declined to accept such as the athlete's protestations of innocence, clean testing history, and, to a lesser extent, a negative hair test.
195. Here, there has been a specific determination that Respondent had the burden to prove the source of the contamination through both scientific and other evidentiary factors. It has been concluded that the meat Respondent consumed was more likely than not contaminated at a level sufficient to produce the concentration in his sample in light of the fact the 3-day window between consumption and testing was not outside of what the science reflects; that trenbolone as a profit producing growth promotor, but reportedly safe, could have been in meat eaten by Respondent with a MRL greater than 2ng/g due to the lack of inspection for trenbolone-injected products imported into

the U.S; and Respondent's consistent record of negative test results. Finally, factors including Respondent's practices, clean testing history, negative hair test and polygraph test have been credited in conjunction with proof of source, not instead of it.

196. To adopt Claimant's view of the case, this Arbitrator would have to accept yet another theory (outside of the three referenced above) that if the oxtail meal was not the source, Respondent ingested trenbolone between March 23 and March 26, which yielded the concentration of 0.912 ng/ g of epitrenbolone in his sample.
197. According to the record, trenbolone is marketed on the "black market" in injectable and oral forms in its prodrug forms of trenbolone acetate (TBA) or trenbolone enanthate (TBE).²⁷ Dr. Dalton, Claimant's expert, testified that it is sold in 25 mg and 100 mg doses. Following the theory, that means within a day or so Respondent intentionally ingested or injected 25 mg or 100 mg of TBA or TBE. Based on Dr. Dalton's conclusion, the 100 mg dose would have had to been taken 15 days prior to March 26--on March 11 to correlate to Respondent's urine concentration. That is obviously well outside of the 3-day window. It is unclear what a 25 mg dose would yield within the 3-day window. Regardless, it appears that either dosage within this 3-day window would have yielded a remarkably different urine same than 0.912 ng of epitrenbolone. In sum, there is no competent evidence in the record that would support this 3-day window doping theory.
198. WADA's concern that a claim of meat contamination is "the obvious excuse for an athlete doping with trenbolone to put forward given that it is used in livestock farming in a number of countries (including the US)...,"²⁸ is not lost on this Arbitrator. However, each case, in this regard, must rise and fall on its own facts and circumstances as explained in detail above.
199. In this case, Respondent did not just "plead and speculate." Instead, he set out "in a systematic way" to establish that he was "a victim." He established by uncontroverted evidence that meat imported into the United States is barely tested for trenbolone; the restaurant where the meal was purchased sources oxtail meat containing trenbolone; he tested negative three (3) weeks prior and after the March 26 test; he has no doping history; there is no evidence that the Prohibited Substance is micro-dosed; he takes no supplements other than a protein powder; his hair sample was negative; there was no deception detected in his polygraph test; and the explanation of what occurred with the meal purchase and his consumption of it was plausible.

²⁷ See, Claimant Exhibit 11 at 4 (Expert Report of Dr. Fedoruk and Respondent Exhibit 42 at 00235 and Expert Report of Dr. Anneleen Decloedt).

²⁸ Claimant Exhibit 54 (WADA Response to Letter of June 16).

200. These are considerations that many tribunals have considered when applying the balance of probabilities standard. Such is logical because conclusions about doping in a meat contamination case must necessarily take into consideration the full picture of what took place and not rely on one sole calculation given the absence of the actual contaminated source.
201. In sum, I find that upon the balance of probabilities, it is more likely than not that meat contamination caused the concentration of the prohibited substance in Respondent's sample. Thus, based on the objective circumstances and behavior of Respondent as adduced from the evidence in this record, upon a balance of probabilities, it is proper to conclude that he bears No Fault for the presence of a Prohibited Substance in his March 26, 2024 test.

C. Period of Ineligibility

202. With No Fault the period of ineligibility is eliminated. As concluded above, the Arbitrator finds that on the balance of probabilities, Respondent established concrete evidence that the source of contamination was the oxtail meat he consumed and that he did not know or suspect and could not reasonably have known or suspected even with the exercise of utmost caution, that the meat contained trenbolone.
203. It is therefore concluded that Respondent had No Fault or Negligence in connection with the AAF and there shall be no period of Ineligibility.

D. Disqualification of Results

204. Article 10.10 is clear that results from the date a positive sample is collected, or other antidoping rule violation occurred, through the commencement of any provisional suspension, be disqualified, unless "fairness requires otherwise." Respondent had no results affected by this provision.

X. AWARD

Having duly heard the evidence and the argument of the Parties, the Arbitrator awards as follows:

- A. Claimant met its burden of proving Respondent committed an anti-doping rule violation under Articles 2.1 and 2.2 the Code for use and presence of a prohibited substance.
- B. Respondent has sustained his burden of proof under Article 10.5 of the Code that he bore No Fault or Negligence in connection with the use and presence of a Prohibited Substance. Therefore, Respondent shall have no period of Ineligibility.
- C. The Parties shall bear their own attorneys' fees and costs associated with this Arbitration. The administrative fees and expenses of the arbitration administrator, and the compensation and expenses of the Sole Arbitrator, shall be borne entirely the United States Olympic & Paralympic Committee as provided in the relevant arbitration rules.
- D. This Award is in full settlement of all claims submitted in this arbitration. All claims not expressly granted herein are hereby denied.

Dated: This 18th day of **July, 2024**
Fort Lauderdale, Florida



Jeanne Charles, Esq.
Arbitrator