AMERICAN ARBITRATION ASSOCIATION
Arbitration Tribunal

In the Matter of the Arbitration between

United States Anti-Doping Agency, Claimant
and
Torri Edwards, Respondent

RE: 30 190 00675 04

INTERIM AWARD OF ARBITRATORS

WE, THE UNDERSIGNED ARBITRATORS, having been designated by the above-named parties, and having been duly sworn, and having duly heard the proofs and allegations of the Parties and, after a hearing held on July 19, 2004, do hereby render this Interim Award as follows with the understanding a Final Award will be issued shortly:

The Respondent concedes that she failed in her "personal duty to ensure that no prohibited substance enters his body tissues or fluids. Athletes are warned that they shall be held responsible for any prohibited substance found to be present in their bodies" (IAAF Rule 38.12(i)). Respondent accepts responsibility and stipulates that there was a doping violation. Therefore, the only issue submitted to this panel is whether to impose the requisite sanction, or to find that there *may be* exceptional circumstances under Rule 38.12(iii).

Respondent offers two arguments for such a finding. The first is that the IAAF, but not all international governing bodies, has implemented the WADA doping provisions, thus depriving her of the benefit of her organization's prior, less stringent, rules. We reject this view as being without support in law or logic. Her second contention is that her situation is unique in that she has shown that she believed that she was taking a harmless basic food (glucose) before a non-competitive race, after first rejecting a potentially contaminated source of that substance. She was not taking a supplement or vitamin, and, unlike athletes using those materials, had no reason to suspect that contamination by or compounding with a prohibited ingredient was a possibility. She had previously confirmed with USADA that ingestion of glucose was freely permitted

This Respondent is an elite athlete who has repeatedly been through doping control, with no positive results during her five year professional career. She exercised caution by not using the previously opened container offered by her trainer for fear of contamination, and then did take from him a locally purchased sealed glucose packet which was in a rare (and, at least on the individual packet, unmarked) combination with the prohibited substance shown in her subsequent test.

These circumstances can be distinguished from those which are the basis of the prevailing law on this subject, including the decision in *Vencill* v. *USADA* (CAS, March, 2004) put forward by Claimant, which invariably pertain to an athlete taking a contaminated supplement, not a carbohydrate, a *food* packaged in pill form. Glucose is consumed in drinks on a regular and haphazard basis, with no duty to investigate. Respondent states that she had no reason to suspect, in spite of the highly charged environment of contaminated supplements and doping violations in the elite athlete community, that sealed packages of glucose would ever be combined with other substances, as it is always packaged alone (except, she has now learned to her detriment, in France and Vietnam).

We therefore find that exceptional circumstances may here exist. We further determine, based in part on the lack of precedent under these newly promulgated rules as to what may constitute "no fault or negligence" under Rule 40.2. and "no significant fault or no significant negligence" under Rule 40.3, that referral to the IAAF pursuant to Rule 38.16 is the proper course of action. Accordingly, we adjourn these proceedings as set forth in subpart (o) thereof, and await the decision of the IAAF.

The administrative fees and expenses of the American Arbitration Association and the compensation and expenses of the arbitrators shall be borne by Claimant USADA.

This Award may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute together one and the same instrument.

July 22, 2004
Date

Richard K. Seydel

July 22, 2004
Date

Maidie Oliveau

Date

Alan I. Rothenberg