UNION CYCLISTE INTERNATIONALE

Anti-Doping Tribunal

UCI Anti-Doping Tribunal

Judgment

case ADT 01.2025

UCI v. Mr Antwan Tolhoek

Single Judge:

Mr Jordi López Batet (Spain)

Aigle, 14 July 2025

I. INTRODUCTION

1. The present Judgment is issued by the UCI Anti-Doping Tribunal (hereinafter referred to as "the Tribunal") in application of the UCI Anti-Doping Procedural Rules (hereinafter referred to as "the ADT Rules") in order to decide upon violations of the UCI Anti-Doping Rules (hereinafter referred to as "the UCI ADR") committed by Mr. Antwan Tolhoek (hereinafter referred to as "the Rider" or "Mr. Tolhoek"), as alleged by the UCI (hereinafter collectively referred to as "the Parties").

II. FACTUAL BACKGROUND

2. The circumstances stated below are a summary of the main relevant facts, as submitted by the Parties. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. While the Single Judge has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Judgment refers only to the necessary submissions and evidence to explain his reasoning.

A. The Rider

3. The Rider is a professional cyclist of Dutch nationality who at the time of the alleged anti-doping rule violation (hereinafter referred to as "the ADRV") was affiliated to the Andorran Cycling Federation (hereinafter referred to as "the ACF") and was hence a Licence-Holder within the meaning of the UCI ADR.

B. The UCI

4. The UCI is the association of national cycling federations and a non-governmental international association with a non-profit-making purpose of international interest, having legal personality in accordance with Articles 60 ff. of the Swiss Civil Code according to Articles 1.1 and 1.2 of the UCI Constitution.

C. The alleged ADRV

5. On 27 November 2023, the Rider provided a urine sample during an out-of-competition doping control and a blood sample for the purpose of the Athlete Biological Passport program. The Rider confirmed in the Doping Control Form that both samples were taken in accordance with the applicable regulations.

6. At the time of doping control, the Rider was contracted with the UCI WorldTeam Lidl-Trek, with whom he remained until 31 December 2023, and then he became part of the UCI Continental team Sabgal/Anicolor (Clube Desportivo Fullracing) from 1 January 2024.

7. The urine sample provided by the Rider was analysed in the World Anti-Doping Agency (hereinafter referred to as "WADA")-accredited Laboratory of Salt Lake City, USA (hereinafter referred to as the "Laboratory").

8. On 25 January 2024, the Laboratory reported an Adverse Analytical Finding (hereinafter referred to as the "AAF") for Anabolic Androgenic Steroids (hereinafter referred to as "AAS" or the "Prohibited Substances") in the Rider's A-sample.

9. Testosterone, Androsterone, Etiocholanolone and Adiols, amongst others (administered exogenously) are Prohibited Substances listed under class S1.1. of the WADA Prohibited List, which is adopted by the UCI.

10. On 7 February 2024, the UCI notified the Rider of the AAF for AAS and informed him, *inter alia*, that (i) the AAF constituted a potential violation of Article 2.1 and/or Article 2.2 of the UCI ADR, (ii) he had the right to request the opening and analysis of the B-sample, (iii) he had the right to ask for the Laboratory Documentation Package (hereinafter referred to as the "LDP") for his A-sample, (iv) he had the right to provide explanations, and (v) he was imposed a mandatory provisional suspension in accordance with Article 7.3 of the UCI ADR in combination with Article 6.2 of the UCI Regulations for Results Management, effective from the date of notification (i.e. 7 February 2024).

11. On 13 February 2024, the Rider requested the opening and analysis of the B-sample as well as the A-sample LDP, and explained that he had a scooter accident in Thailand on 3 November 2023 (the "Accident"), that is to say some days before the sample which gave rise to the AAF was collected. It was the Rider's contention that the medical treatment he received as regards of the Accident might have affected the doping test results.

12. On 21 February 2024, the Rider informed the UCI of his request to have his B-sample opened and analysed on 11 March 2024, and provided a list of the medications and supplements he took in the 15 days preceding the collection of his sample. He also informed the UCI that he was waiting for some information on the medication he took as regards the Accident.

13. On 22 February 2024, the UCI informed the Rider that the opening and analysis of the B-sample would take place on 11 March 2024 as requested, and sought further clarifications regarding the supplements and medications taken by the Rider prior to the AAF.

14. On 6 March 2024, the UCI informed the Rider that the A-sample LDP had still not been provided by the Laboratory and reminded him of the UCI's outstanding request regarding his use of supplements and medications in the 15 days preceding the sample collection.

15. On 8 March 2024, the Rider's representative sent a letter to the UCI expressing his concern that the A-sample LDP had still not been provided.

16. On 11 March 2024, the UCI informed the Rider and his representatives that the Laboratory had still not provided the A-sample LDP and reminded the Rider once again of the UCI's outstanding request regarding his use of supplements and medications in the 15 days preceding the sample collection.

17. Also on 11 March 2024, the B-sample opening and analysis took place at the Laboratory.

18. On 14 March 2024, the A-sample LDP was sent to the Rider by the UCI, who also informed him that the B-sample LDP had been requested to the Laboratory.

19. On 17 March 2024, the Rider provided additional information on the supplements and medication he was taking during the 15 days preceding the sample collection.

20. On 18 March 2024, the UCI (i) informed the Rider that the Laboratory's analysis of the B-sample confirmed the presence of AAS and (ii) ascertained that he had committed an ADRV in accordance with Articles 2.1 and/or 2.2 of the UCI ADR. *Inter alia*, the Rider (i) was given the opportunity to provide his final explanations and (ii) was provided a copy of the B-sample

Analysis Report and LDP. The UCI also requested the Rider to clarify some aspects on the supplements and medications he had taken during the 15 days preceding the sample collection and on the Accident.

21. On 18 April 2024, the Rider's legal counsel informed the UCI that the AAF resulted from the administration of medication following the Accident. In essence, the Rider explained that he received intravenous (IV) therapy at a local clinic as part of his post-accident care. While gathering evidence, he discovered that the attending doctor had made an error by adding testosterone instead of vitamin B5 (Bepanthen®) to the IV saline solution with vitamins. Based on the aforementioned, the Rider's counsel claimed that the Rider bore No Fault or Negligence in this case.

22. On 1 May 2024, following receipt of the Rider's explanations, the UCI invited the Rider to clarify several points on such explanations and to provide further documentation, which the Rider did on 25 May 2024. *Inter alia*, the doctor that treated the Rider in Thailand attested in writing that "*accidentally we use testosterone 250 mg instead of Bepanthen*".

23. On 7 June 2024, the UCI requested new clarifications and documentation from the Rider, which he provided on 14 June 2024.

24. On 26 June 2024, the UCI requested an opinion from Prof. Martial Saugy on the Rider's aforementioned explanations, in particular on the compatibility of such explanations with the AAF.

25. On 16 July 2024, Prof. Saugy issued his expert opinion ("Prof. Saugy's First Opinion"), in which he concluded the following:

> *"Based on the above considerations, in view of the concentrations found in the Rider's Sample A and the isotopic signature of the steroids, it is extremely unlikely that the source of the AAF of November 27 is a testosterone injection performed on November 3.*
>
> *The injection must have been performed some days before the anti-doping test*."

26. On 7 August 2024, the UCI informed the Rider that it was not in a position to accept that he had established by balance of probabilities that the origin of the Prohibited Substances found in his sample was linked to the non-intentional administration of testosterone on 3 November 2023, and offered the Rider an Acceptance of Consequences ("AoC") in accordance with Article 8.2 of the UCI ADR.

27. On 22 August 2024, the Rider rejected the AoC, requested the UCI a reconsideration of the proposed AoC and submitted an expert opinion prepared by Dr. de Boer in response to Prof. Saugy's First Opinion ("Dr. de Boer's First Opinion"), with the following final remarks and conclusion:

> *"Final remarks*
>
> *I have stated that it cannot be excluded that TESTOSTERONE ENANTHATE administered through infusion in a saline solution may be stored in the body according to a so-called longterm storage process. One way of storage is that a high dosage 250 mg of TESTOSTERONE ENANTHATE after infusion into blood cannot be de-esterified by esterases completely and that a part of the dosage is stored in the fat compartment of the body. This way the detection window of the non-intentional administration of TESTOSTERONE ENANTHATE is prolonged and may explain the respective AAF.*

As a result, it can be concluded that it cannot be excluded that the administration of a high dosage of TESTOSTERONE ENANTHATE through a saline infusion led only a partial desertification and may have led to a storage in the body fat compartment.

This way the detection window of the administration of TESTOSTERONE ENANTHATE is prolonged and may explain the respective AAF.

CONCLUSIONS

1) *It can be concluded that if a doping agent is being stored in the body fat compartment, that it can be stored for a long-time and can only be released if the respective fat tissue is used as part of the energy metabolism;*

2) *It can also be can concluded tha TESTOSTERONE ENANTHATE is a lipophilic doping agent and may be stored in the body fat compartment;*

3) *As a result, it can be stated that it cannot be excluded that the administration of a high dosage of TESTOSTERONE ENANTHATE through a saline infusion led only a partial de-esterfication and may have led to a storage of TESTOSTERONE ENANTHATE in the body fat compartment;*

4) *This way the detection window of the administration of TESTOSTERONE ENANTHATE is prolonged and may explain the respective AAF;*

5) *Therefore and in contrast to the testomonial of Prof. Saugy, the source of the AAF of 27 November 2024 still can be a saline infusion of TESTOSTERONE ENANTHATE performed on 3 November 2024."*

28. On 4 September 2024, following consultation with Prof. Saugy after the provision of the Dr. de Boer's First Opinion, the UCI confirmed its position as stated on 7 August 2024 and granted the Rider a 5-day deadline to accept the proposed AoC. Prof. Saugy, in an email of 26 August 2024, affirmed that the hypothesis raised by Dr. De Boer were speculative and unproven in accordance with the current scientific literature and re-confirmed the conclusions of the Prof. Saugy's First Opinion. Prof. Saugy supplemented his considerations on Dr. de Boer's First Opinion in a report dated 15 October 2024 ("Prof. Saugy's Second Opinion"), which concluded the following:

Then, I confirm my conclusion in my previous report:

In view of the concentrations found in the rider's sample A and of the isotopic signature of the steroids, it is extremely unlikely that the source of the AAF of November 27 is a testosterone IV infusion performed November 3.

An administration of testosterone ester must have been performed some days before the antidoping test.

29. On 9 September 2024, the Rider informed the UCI that he refused the AoC.

30. On 10 January 2025, the UCI filed its petition with the Tribunal (hereinafter, the "Petition"), requesting that a decision be issued in the following terms:

- *Declaring that Mr. Antwan Tolhoek has committed an Anti-Doping Rule Violation under Articles 2.1 and/or 2.2. of the UCI ADR.*

- *Imposing on Mr. Antwan Tolhoek a Period of Ineligibility of 4 years, commencing on the date of the Tribunal's decision.*

- *Holding that the period of provisional suspension served by Mr. Antwan Tolhoek since 7 February 2024 shall be deducted from the Period of Ineligibility imposed by the Tribunal.*

- *Disqualifying all results obtained by Mr. Antwan Tolhoek from the date of the sample collection (i.e. 27 November 2023) until the start of the provisional suspension (i.e. 7 February 2024).*

- *Condemning Mr. Antwan Tolhoek for paying a fine* [redacted]

- *Condemning Mr. Antwan Tolhoek to pay the costs of results management by the UCI (CHF 2'500.-) and the costs incurred for the out-of-competition testing (CHF 1'500.-).*

III. PROCEDURE BEFORE THE TRIBUNAL

31. As mentioned above, pursuant to Article 13.1 of the UCI ADT Rules, the UCI initiated proceedings before this Tribunal through the filing of the Petition to the Secretariat on 10 January 2025.

32. On 20 January 2025, the Secretary of the Tribunal informed the Rider that disciplinary proceedings had been initiated against him before the Tribunal and that the President of the Tribunal, pursuant to Article 14.1 of the ADT Rules, had appointed Mr. Jordi López Batet as Single Judge in the proceedings. The Tribunal also granted the Rider a term to file his Answer to the Petition (hereinafter referred to as the "Answer").

33. On 30 January 2025, the Rider requested a 14-day extension to file his Answer, which the Tribunal granted.

34. On 17 February 2025, the Rider requested a new 10-day extension to file his Answer, which the Tribunal granted.

35. On 27 February 2025, the Rider requested a new extension of the deadline to file his Answer by 4 March 2025, which the Tribunal granted.

36. On 4 March 2025, the Rider filed his Answer, accompanied by an expert opinion of Dr. de Boer ("Dr. de Boer's Second Opinion"). In his submissions, the Rider did not dispute the ADRV, but the appropriate sanction and its proportionality. In a nutshell, the Rider:

    i) alleged that the AAF resulted from a medical error during treatment following the Accident, where due to a mistake by a local doctor, he was intravenously administered a saline solution containing Testoviron® (which contains 250 mg of testosterone enanthate) instead of the intended vitamin B5,

    ii) asserted, relying on Dr. de Boer's opinion, that it cannot be excluded that the administration of a high dose of testosterone enanthate via saline infusion (rather than intramuscular injection) led only to partial de-esterification and resulted in the storage of the substances in the fat compartment, where it could have remained in the body for several days,

    iii) argued that it established, on the balance of probabilities, that the AAF was caused by the aforementioned medical error and that based on it, he bore No Fault or Negligence or in the alternatively, he bore No Significant Fault or Negligence, such that the sanction should be eliminated or reduced accordingly,

    iv) contended that sanctions must be adjustable depending on the findings of each specific case and be proportionate, and

v) held that no fine should be imposed on the Rider due to his absence of fault or negligence. Subsidiarily, if any fine were to be imposed on him, the Rider requested a substantial reduction of [redacted] fine claimed by the UCI, which he found disproportionate given his financial situation, as his current employment contract provides for an annual salary of only [redacted], meaning the fine would amount to [redacted].

In conclusion, the Rider requested the Single Judge to issue a decision in the following terms:

"- In principal order, to accept that a mistake made by the local doctor in Thailand was the cause of the AAF and that Mr. Tolhoek has No Fault and therefore rendering a decision without any sanction for Mr. Tolhoek.

- *In subsidiary order, in the event the UCI Anti-Doping Tribunal is in the opinion that Mr. Tolhoek bears No Significant Fault or Negligence (light degree) and therefore issue a sanction with a minimum of Ineligibility.*

- *In any way, the provisional suspension served by Mr. Antwan Tolhoek since 7 February 2024 shall be deducted from any Period of Ineligibility imposed by the Tribunal;*

- *To order that no fine will be imposed or in subsidiary order to reduce the fine to the absolute minimum seen the circumstances;*

- *To order the UCI to pay the costs*

- *To relieve Mr. Tolhoek of the UCI administration and procedural fees, if any. "*

37. On 14 March 2025, the Single Judge informed the Parties that a second round of submissions was granted and invited the UCI (i) to submit its comments on the Rider's Answer (hereinafter referred to as the "Reply") by 31 March 2025 and (ii) to indicate its position on whether a hearing should being held in this matter.

38. On 31 March 2025, the UCI requested an extension of the deadline to file its Reply by 11 April 2025. The Tribunal accepted the UCI's request and granted a new deadline for the submission of the Reply.

39. On 11 April 2025, the UCI submitted its Reply, enclosing a new expert report issued by Prof. Saugy addressing certain issues raised in the Rider's Answer ("Prof. Saugy's Third Opinion"). In its Reply, the UCI argued that the Rider had failed to establish, on the balance of probabilities, that the scenario he proposed was more likely than not to be the source of the Prohibited Substances found in his system. In particular, the UCI contended that:

i) the Rider did not demonstrate that the AAS found in his sample resulted from a mistake by the local doctor in Thailand, as neither the Answer nor Dr. de Boer's opinions provided any scientific argument capable of rebutting the conclusions reached by Prof. Saugy,

ii) according to Prof. Saugy's Third Opinion, it is immaterial whether the testosterone enanthate was administered via infusion or injection, as a comparison of the pharmacokinetics of elimination of steroid esters administered intravenously or intramuscularly—including esters with profiles very similar to testosterone enanthate—led to the conclusion that, given the similarity in elimination regardless of the route of administration, and in view of the concentrations found in the Rider's A-sample and the isotopic signature of the steroids, it is extremely unlikely that a IV infusion (or IM injection) of testosterone enanthate administered on 3 November 2023 could account for the AAF on 27 November 2023,

iii) testosterone must have been administered—by any route—some days prior to the anti-doping test, and not on the date alleged by the Rider,

iv) it was open to reducing the fine's amount to [redacted] if justified by concrete and verifiable evidence, and

v) none of the Rider's scientific or legal arguments - nor any other elements presented - satisfactorily explain the AAF.

In addition, the UCI submitted that holding a hearing in this case was unnecessary and that all the Rider's allegations shall be dismissed and the UCI's prayers for relief upheld.

40. On 14 April 2025, the Tribunal invited the Rider to submit his final comments on the UCI's Reply by 1 May 2025.

41. On 25 April 2025, the Rider requested a 10-day extension to file his final comments on the UCI's Reply, which the Tribunal granted.

42. On 9 May 2025, the Rider requested a one-week extension to file his final comments on the UCI's Reply, which the Tribunal granted.

43. On 19 May 2025, the Rider requested a new extension until 26 May 2025 to file his final comments on the UCI's Reply, which the Tribunal granted.

44. On 26 May 2025, the Rider filed his final written comments on the UCI's Reply, submitting a new expert report from Dr. de Boer ("Dr. de Boer's Third Opinion") and a letter from Clube Desportivo Fullracing of 22 February 2024 by virtue of which the Rider was suspended without pay due to the proceedings started by UCI against him. In summary, the Rider (i) held that his fault or negligence "*was not present at least was not significant in relationship to the ADRV*", asserting that his explanation for the presence of Prohibited Substances met the balance of probabilities standard, (ii) contended that the burden rested with the UCI to provide the Single Judge with conclusive scientific evidence ruling out the possibility that his version of events caused the AAF, emphasizing, on the basis of Dr. de Boer's expert opinions, that the divergence between his scenario and that proposed by the UCI could not be definitively resolved through scientific means alone and required consideration of the documentary evidence provided by the Thai authorities, (iii) argued that the imposition of a four-year sanction would be disproportionate in light of the specific circumstances of the case, (iv) reiterated his request for a reduction of the fine and (v) with respect to the hearing, he deferred to the Single Judge's discretion whether to hold it or not. Accordingly, the Rider concluded by requesting the Single Judge render a decision consistent with the terms set forth in his Answer.

45. On 11 June 2025, the Tribunal sent a letter to the Parties informing that for the reasons explained in the letter, no hearing would be held in these proceedings and that the Single Judge would render his judgment based on the documentation currently on file.

IV. JURISDICTION

46. The jurisdiction of the Tribunal follows from Article 8.3.2 of the UCI ADR and Article 3.1 of the ADT Rules according to which "*the Tribunal shall have jurisdiction over all matters in which* […] *An anti-doping rule violation is asserted by the UCI based on a Results Management or investigation process under Article 7 ADR* […]".

47. Furthermore, Article 3.2 of the ADT Rules provides that *"Any objection to the jurisdiction of the Tribunal shall be brought to the Tribunal's attention within 7 days of notification of the initiation of the proceedings. If no objection is filed within this time limit, the Parties are deemed to have accepted the Tribunal's jurisdiction"*.

48. Neither of the Parties raised any objection to the jurisdiction of the Tribunal within said time limit. Therefore, the Tribunal has jurisdiction to decide on the Petition.

V. APPLICABLE RULES

49. In accordance with Article 26 of the ADT Rules, in rendering this Judgment, the Single Judge will apply the UCI ADR and the standards referenced therein as well as the UCI Constitution, the UCI Regulations and, subsidiarily, Swiss law.

VI. THE FINDINGS OF THE SINGLE JUDGE

A. The ADRV

1. The relevant legal framework

50. The UCI submits that the Rider committed an ADRV within the meaning of Articles 2.1 and 2.2 of the UCI ADR, based on the AAF reported by the Laboratory as explained above.

51. The relevant legal provisions with respect to the establishment of an ADRV read as follows:

> *"**2.1 Presence of a Prohibited Substance or its Metabolites or Markers in a Rider's Sample***
>
> *2.1.1 It is each Rider's personal duty to ensure that no Prohibited Substance enters his or her body. Riders 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 Rider's part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.*
>
> *[Comment to Article 2.1.1: An anti-doping rule violation is committed under this Article without regard to a Rider's Fault. This rule has been referred to in various CAS decisions as "Strict Liability". A Rider's Fault is taken into consideration in determining the Consequences of this anti-doping rule violation under Article 10. This principle has consistently been upheld by CAS.]*
>
> *2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Rider's A Sample where the Rider waives analysis of the B Sample and the B Sample is not analyzed; or, where the Rider's B Sample is analyzed and the analysis of the Rider's B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Rider's A Sample; or, where the Rider's B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.*
>
> *[Comment to Article 2.1.2: The Anti-Doping Organization with results management responsibility may, at its discretion, choose to have the B Sample analyzed even if the Rider does not request the analysis of the B Sample.]*
>
> *2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its*

Metabolites or Markers in a Rider's Sample shall constitute an anti-doping rule violation.

2.1.4 As an exception to the general rule of Article 2.1, the Prohibited List or other International Standards or UCI Regulations incorporated in these Anti-Doping Rules may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.

2.2 Use or Attempted Use by a Rider of a Prohibited Substance or a Prohibited Method

2.2.1 It is each Rider's personal duty to ensure that no Prohibited Substance enters his or her body and that no Prohibited Method is used. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Rider's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.

2.2.2 The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be used for an anti-doping rule violation to be committed.

[Comment to Article 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2, unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Rider, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Rider Biological Passport, or other analytical which does not otherwise satisfy all the requirements to establish 'Presence' of a Prohibited Substance under Article 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]

[Comment to Article 2.2.2: Demonstrating the 'Attempted Use' of a Prohibited Substance or a Prohibited Method requires proof of intent on the Rider's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the Strict Liability principle established for violations of Article 2.1 and violations of Article 2.2 in respect of Use of a Prohibited Substance or Prohibited Method. A Rider's 'Use' of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Rider's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Article 2.1 regardless of when that substance might have been administered)]".

52. As to the burden and standard of proof, Article 3.1 of the ADR reads as follows:

"The UCI shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the UCI 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 these Anti-Doping Rules place the burden of proof upon the Rider or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability. …".

53. As to the methods of establishing facts and presumptions, Article 3.2 of the ADR provides:

"Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

[Comment to Article 3.2: For example, the UCI may establish an anti-doping rule violation under Article 2.2 based on the Rider's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Rider's blood or urine Samples, such as data from the Athlete Biological Passport.]

3.2.1 Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any Rider or other Person seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge.

CAS on its own initiative may also inform WADA of any such challenge. At WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA's receipt of such notice, and WADA's receipt of the CAS file, WADA shall also have the right to intervene as a party, appear amicus curiae, or otherwise provide evidence in such proceeding.

3.2.2 WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Rider or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.

If the Rider or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.

[Comment to Article 3.2.2: The burden is on the Rider or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Rider or other Person does so, the burden shifts to the UCI to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]

3.2.3 Departures from any other rule set forth in these Anti-Doping Rules, or any International Standard or UCI Regulation incorporated in these Anti-Doping Rules which did not cause an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such evidence or results. If the Rider or other Person establishes a departure from any other rule set forth in these Anti-Doping Rules, or any International Standard or UCI Regulation incorporated in these Anti-Doping Rules which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding or other anti-doping rule violation, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation".

2. In casu

54. The Single Judge notes that (i) the Laboratory reported an AAF for AAS in the Rider's A-sample, (ii) the B-sample's analysis confirmed this finding, and (iii) as asserted by the Rider in his Answer,

"*the AAF itself is not disputed at this stage. The results of the A and B sample show the presence of Anabolic Androgenic Steroids (AAS) in the urine of Mr. Tolhoek*". Based on this and on the provisions set out above (in particular, Article 2.1.2 of the UCI ADR), the Single Judge considers that the UCI has discharged its burden of proof to establish that the Rider committed a violation of Article 2.1 of the UCI ADR (Presence of a Prohibited Substance or its Metabolites or Markers in a Rider's Sample).

55. The Single Judge also notes that the UCI contends that an ADRV of Use under Article 2.2 of the UCI ADR is also established. However, in light of the fact that the Single Judge has already held that the Rider committed a violation of Article 2.1 of the UCI ADR, the question of whether the Rider also committed a violation of Article 2.2 of the UCI ADR is of no practical consequence, since both bear the same consequences. Thus, it is considered unnecessary to address the issue of whether the Rider also committed a violation of Article 2.2 of the UCI ADR.

B. The Consequences of the ADRV

56. The UCI ADR provides for different types of consequences in case of an ADRV.

57. The UCI is requesting the Tribunal to sanction the Rider with an ineligibility period, the disqualification of his results and a monetary fine.

1. Period of Ineligibility

58. If the Rider's ADRV constitutes a first violation (as it is the case here), Article 10.2 of the UCI ADR applies, which in the pertinent part reads as follows:

> *"The period of Ineligibility for a violation of Article 2.1, 2.2 or 2.6 shall be as follows, subject to potential elimination, reduction or suspension pursuant to Article 10.5, 10.6 or 10.7:*
>
> *10.2.1 The period of Ineligibility, subject to Article 10.2.4, shall be four (4) years where:*
>
> *10.2.1.1 The anti-doping rule violation does not involve a Specified Substance or a Specified Method, unless the Rider or other Person can establish that the anti-doping rule violation was not intentional.* […]
>
> *10.2.2 If Article 10.2.1 does not apply, subject to Article 10.2.4.1, the period of Ineligibility shall be two (2) years.*

59. Pursuant to this article, the standard period of ineligibility is four (4) years, if the ADRV does not involve a Specified Substance and the Rider cannot establish that the ADRV was not intentional.

60. In the present case, the Rider's ADRV involves the presence of exogenous testosterone, androsterone and etiocholanolone, among other substances. These substances are classified as Prohibited under Category S1.1 (Exogenous Anabolic Androgenic Steroids) of the WADA Prohibited List and are not considered Specified Substances. Consequently, the standard period of ineligibility of four (4) years should in principle apply to the Rider.

61. Notwithstanding this, it shall be noted that in accordance with Article 10.2 of the UCI ADR, if the Rider can establish that the ADRV was not intentional, the standard period of ineligibility shall then be of 2 years. In this respect, it shall be noted that (i) in accordance with Article 10.2.3 of the UCI ADR, "*as used in Article 10.2, the term "intentional" is meant to identify those Riders or other Persons who engage in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-*

doping rule violation and manifestly disregarded that risk. […]*"* and (ii) pursuant to the Comment to Article 10.2.1.1 of the UCI ADR, "*while it is theoretically possible for a Rider or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 a Rider will be successful in proving that the Rider acted unintentionally without establishing the source of the Prohibited Substance*".

62. In addition, the Rider may be entitled to the elimination or to the reduction of the standard period of ineligibility if the prerequisites of Articles 10.5 (No Fault or Negligence) or 10.6 (No Significant Fault or Negligence) of the UCI ADR are met. Said provisions read as follows:

> "***10.5 Elimination of the Period of Ineligibility where there is No Fault or Negligence***
>
> *If a Rider 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.*
>
> *[Comment to Article 10.5: This Article and Article 10.6.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example, where a Rider could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, 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 (Riders are responsible for what they ingest (Article 2.1) and have been warned against the possibility of supplement contamination); (b) the Administration of a Prohibited Substance by the Rider's personal physician or trainer without disclosure to the Rider (Riders are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Rider's food or drink by a spouse, coach or other Person within the Rider's circle of associates (Riders are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction under Article 10.6 based on No Significant Fault or Negligence.]*
>
> ***10.6 Reduction of the Period of Ineligibility based on No Significant Fault or Negligence***
>
> *10.6.1 Reduction of Sanctions in Particular Circumstances for Violations of Article 2.1, 2.2 or 2.6.*
>
> *All reductions under Article 10.6.1 are mutually exclusive and not cumulative.*
>
> *10.6.1.1 Specified Substances or Specified Methods*
>
> *Where the anti-doping rule violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Rider or other Person can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Rider's or other Person's degree of Fault.*
>
> *10.6.1.2 Contaminated Products*
>
> *In cases where the Rider or other Person can establish both No Significant Fault or Negligence and that the detected Prohibited Substance (other than a Substance of Abuse) came from a Contaminated Product, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Rider or other Person's degree of Fault.*
>
> *[Comment to Article 10.6.1.2: In order to receive the benefit of this Article, the Rider or other Person must establish not only that the detected Prohibited Substance came from a Contaminated Product but must also separately establish No*

Significant Fault or Negligence. It should be further noted that Riders are on notice that they take nutritional supplements at their own risk. The sanction reduction based on No Significant Fault or Negligence has rarely been applied in Contaminated Product cases unless the Rider has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Rider can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Rider actually Used the Contaminated Product, whether the Rider had declared the product which was subsequently determined to be contaminated on the Doping Control form.

This Article should not be extended beyond products that have gone through some process of manufacturing. Where an Adverse Analytical Finding results from environment contamination of a "nonproduct" such as tap water or lake water in circumstances where no reasonable person would expect any risk of an anti-doping rule violation, typically there would be No Fault or Negligence under Article 10.5.]

10.6.1.3 Protected Person or Recreational Rider

Where the anti-doping rule violation not involving a Substance of Abuse is committed by a Protected Person or Recreational Rider, and the Protected Person or Recreational Rider can establish No Significant Fault or Negligence, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on the Protected Person or Recreational Rider's degree of Fault.

10.6.2 Application of No Significant Fault or Negligence beyond the Application of Article 10.6.1

If a Rider or other Person establishes in an individual case where Article 10.6.1 is not applicable that he or she bears No Significant Fault or Negligence, then, subject to further reduction or elimination as provided in Article 10.7, the otherwise applicable period of Ineligibility may be reduced based on the Rider or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight (8) years.

[Comment to Article 10.6.2: Article 10.6.2 may be applied to any anti-doping rule violation except those Articles where intent is an element of the anti-doping rule violation (e.g., Article 2.5, 2.7, 2.8, 2.9 or 2.11) or an element of a particular sanction (e.g., Article 10.2.1) or a range of Ineligibility is already provided in an Article based on the Rider or other Person's degree of Fault.]

63. As stated in the UCI ADR definitions of No Fault or Negligence and No Significant Fault or Negligence, in order to benefit from elimination or reduction of the sanction under Articles 10.5 or 10.6 of the UCI ADR, the Rider must establish how the Prohibited Substances entered his system:

"No Fault or Negligence […]*: Except in the case of a Protected Person or Recreational Rider, for any violation of Article 2.1, the Rider must also establish how the Prohibited Substance entered the Rider's system."*

"No Significant Fault or Negligence […]*: Except in the case of a Protected Person or Recreational Rider, for any violation of Article 2.1, the Rider must also establish how the Prohibited Substance entered the Rider's system."*

64. According to Article 3.1 of the UCI ADR, where the burden of proof shifts to the Rider to rebut a presumption or establish specific facts (such as the source of the Prohibits Substances found in his sample), the applicable standard of proof is the *balance of probabilities*. In particular, Article 3.1 of the UCI ADR reads as follows:

"The UCI shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the UCI 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 these Anti-Doping Rules place the burden of proof upon the Rider 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.".

65. Therefore, when a Rider seeks to rebut a presumption or establish specific facts—such as the source of a Prohibited Substance—with a view to obtaining the elimination or reduction of the applicable period of Ineligibility under Articles 10.5 or 10.6 of the UCI ADR, the applicable standard of proof is the balance of probabilities.

66. As noted by the Single Judge, and consistent with the Decision in UCI ADT 04.2018 UCI v. Jeancarlo Padilla, the CAS has clarified that proving the source of a Prohibited Substance on a balance of probabilities "*simply means, in percentage terms, that it is satisfied that there is a 51% chance of it having occurred. The Player thus only needs to show that one specific way of ingestion is marginally more likely than not to have occurred*" (*CAS 2014/A/3615 WADA v. Daiders*; *CAS 2009/A/1926 ITF v. Richard Gasquet*).

67. In addition, in what concerns the evidence needed to reach this standard of proof, it shall be taken into account that as established in the UCI ADT Decisions 04.2018 UCI Jeancarlo Padilla and 05.2017 UCI v. Nunes Pinho, *"Previous CAS panels have expressed the conclusion that merely raising unverified hypotheses or mere speculations as to how the substance entered an athlete's body will not be adequate to meet the threshold as set forth in Article 10.5.1 and 10.5.2 of the WADAC (and its corresponding federation's anti-doping regulations) (see for example CAS 2010/A/2230 International Wheelchair Basketball Federation v. UK Anti-Doping & Simon Gibbs, spec. § 11.5 ; CAS 2010/A/2268, I v. FIA, spec. § 129 ; CAS 2007/A/1413, WADA v. FIG & Vysotskaya, spec. §§ 75 and 76 ; CAS 2006/A/1067, IRB v. Keyter, spec. § 6.11, CAS 2006/A/1130, WADA v. Stanic & Swiss Olympic Association, spec. §§ 51 and 52)".*

68. This being said, the Single Judge notes that the Rider (i) denies having ingested intentionally any product that might contain a Prohibited Substance and (ii) claims that he bore No Fault or Negligence and that therefore, no sanction is to be imposed on him based on Article 10.5 of the UCI ADR and subsidiarily, that he bore No Significant Fault or Negligence and the standard sanction shall be reduced with a minimum of ineligibility based on Article 10.6 of the UCI ADR.

69. Based on the aforementioned, the Single Judge shall firstly analyze whether the Rider established how the Prohibited Substances entered his system.

70. The Rider basically argues in this respect that it has been established, on the balance of probabilities, that the AAF resulted from a medical error committed by a local doctor in Thailand who, while treating him after the Accident, mistakenly administered an intravenous saline infusion containing Testoviron®—a preparation known to contain 250 mg of testosterone enanthate—instead of vitamin B5.

71. In support of this explanation, the Rider submitted, among other documents, a letter from the doctor acknowledging the mistake, as well as several expert opinions issued by Dr. de Boer.

72. The Single Judge has carefully assessed the Rider's theory to determine whether he has met his burden of proof under the applicable standard of the balance of probabilities, taking into account the allegations and evidence submitted by both Parties, with particular attention to the expert reports of Dr. de Boer and Prof. Saugy.

73. After a thorough analysis of the case file and for the reasons set out below, the Single Judge finds that the Rider failed to establish how the Prohibited Substances entered his system.

74. The Single Judge finds proven that the Rider indeed suffered the Accident in Thailand on 3 November 2023 and that he received medical treatment as regards of it. However, the evidence taken in these proceedings does not allow him to conclude, based on balance of probabilities, that the source of the Prohibited Substances is the one sustained by the Rider.

75. The Single Judge notes that Prof. Saugy has been very clear in stating that based on the concentrations found in the Rider's A-sample and the isotopic signature of the steroids, it is extremely unlikely that the AAF could have resulted from an administration (whether intravenous, intravenous infusion or intramuscular) of testosterone 24 days before the doping control. The findings of Prof. Saugy are found convincing and well substantiated by the Single Judge and as explained below, not duly contradicted by the scientific evidence produced by the Rider.

76. In Prof. Saugy's First Opinion, reference is made to several scientific publications and studies that reveal that after an injection of 250 mg of testosterone ester on several volunteers, the testosterone concentrations typically peak between 4 and 8 days after administration, and the maximum concentration of testosterone found in such volunteers oscillate between 80 ng/mL and 450 ng/mL, based on which Prof. Saugy concluded the following:

> *"With a urinary testosterone concentration of 500 ng/mL measured in the athlete's urine, it is extremely unlikely that the source of the AAF is an injection of 250 mg of testosterone ethanate 24 days before the urine collection."*

77. Also in Prof. Saugy's First Opinion, it is mentioned that "*Okano et al (2012) measured the isotopic signature (IRMS) of the metabolites of testosterone excreted after the injection of 100 mg of testosterone ester (see reference higher in the text). In the case of the volunteers with no deficiency for the UDPG-genotype 2B17, the maximum Δδ values for all metabolites were reached between one and six days. Sixteen days after the injection, the values were all coming almost back […] to the Δδ existing before the treatment",* based on which Prof. Saugy concluded the following:

> *"Then, the IRMS analyses of the urinary steroids show also that the injection of testosterone has not been done 24 days before the urine collection, but much more recently (maximum between 1 and 6 days before the urine collection)."*

78. The Single Judge notes that Dr. De Boer, while analyzing Prof. Saugy First Opinion, states that no injection of testosterone, but an infusion, was applied to the Rider, and questions the validity of the conclusions of Prof. Saugy based on it. According to Dr. De Boer, in cases of infusion, the substance may be stored in the body's fat compartment and potentially remain there for an extended period after administration. Based on this and in a nutshell, Dr. De Boer holds that it cannot be excluded that the administration of testosterone enanthate through infusion to the Rider, with a prolonged detection window, may explain the AAF.

79. After analyzing Dr. De Boer opinions produced to the file, the Single Judge is not persuaded that the Rider's arguments can invalidate the findings of Prof. Saugy.

80. First of all, as explained in Prof. Saugy's Second and Third Opinion, the fact that testosterone was injected or administered by infusion to the Rider does not make the difference in the conclusions he reached in his reports. The Single Judge finds such explanations compelling. The

Second and the Third Opinion read, in the pertinent part and in this respect, as follows (emphasis added):

Second Opinion:

"I did not see any scientific argument in Dr de Boer's report showing that the administration of a testosterone enanthate through a saline infusion would lead a partial de-esterification and then, a storage in the fat compartment. The saline infusion will inject the substance slowly in the blood flow and I do not see it could be rather expected that the phenomenon of de-esterification will be optimal in those circumstances.

*However, **if only a partial de-esterification of the substance would have been present, it is unlikely that the peak of maximum concentration of testosterone and its metabolites in urine would be 24 days after the administration, due to a sudden release of the testosterone enanthate from the fat compartment***".

Third Opinion:

"*As mentioned above, my mission was not to supply any scientific proof that the alleged mistake did not happen but it was really to evaluate if the alleged IV infusion of testosterone enanthate could be the source of the AAF.*

As already said in my previous reports, we know that there are no scientific publications on the pharmacokinetic of elimination of testosterone enanthate after IV infusion administration.

However, the comparison between the pharmacokinetic of elimination of drugs administered by IV or IM injections has been made for other steroid esters.

Hochhaus et al in 2001 showed that the half-life of dexamethasone esters, administered to healthy male volunteers, was a bit shorter after IV injection than after IM injection and that the urinary excretion was very similar for both type of administrations.

A similar experiment has been done by Samtani & Jusko in rats showing that there was no marked difference in dexamethasone pharmacokinetic after IV or IM injection of dexamethasone ester.

We can then conclude that the pharmacokinetic elimination of testosterone and its metabolites after IV or IM injection of testosterone enanthate is very similar.

It is why in my previous reports, the arguments were based on the results of the steroid profile (concentrations of testosterone and its main metabolites) in urine and the comparison of the data published in the literature after the usual IM injection of testosterone enanthate.

*Then, based on the concentrations of testosterone and its metabolites, from the isotopic signature of the steroids, **I still think that it is extremely unlikely that the source of the AAF of November 27 is due to an administration of testosterone performed November 3 (whatever the type of administration IV, IV infusion or IM)**".*

81. Secondly, Dr. De Boer expressly acknowledged in his First Opinion (emphasis added) that "*this pharmaceutical formulation of TESTOSTERONE* [testosterone enanthate] *is not designed to be administered through an saline infusion and according to my knowledge **this way of administration has not been described in the scientific domain**, that is publically available to me. Consequently, **we can only speculate** about the behaviour and thus outcome of such an administration that testosterone enanthate*"[1], and that "*long term storage of doping agents in a body compartment is **not common***", which makes it difficult for the Single Judge to assume that Dr. De Boer's theory on the long term storage of testosterone in the body fat compartment

[1] Statements of the same kind are also made in Dr. De Boer's Second Opìnion (page 3).

is more probable than other theories explaining the AAF *in casu*, especially bearing in mind Prof. Saugy's conclusions in the three reports produced to the file, that undoubtedly conclude that in view of the concentrations found in the Rider's A-sample and the isotopic signature of the steroids, it is extremely unlikely that the source of the AAF of 27 November 2023 is an administration of testosterone on 3 November 2023.

82. Additionally, the Single Judge shall emphasize that Dr. De Boer's conclusion in his First Opinion that "***it cannot be excluded*** *that the administration of a high dosage of testosterone enanthate through a saline infusion led only a partial de-esterfication and* ***may*** *have led to a storage of testosterone enanthate in the body fat compartiment*" (emphasis added) contributes to his conviction that the balance of probabilities threshold has not been met. That Dr. De Boer's hypothesis "cannot be excluded" and that the administration of testosterone enanthate through a saline infusion "may" have led to its storage in the body fat compartiment is not enough in the Single Judge's view to consider in the present case that this hypothesis is more likely than others, specially bearing in mind that Prof. Saugy, in his email of 26 August 2024, expressly affirmed that such hypothesis is speculative and not sustained by scientific literature.

83. Therefore, the Single Judge finds that the Rider failed to establish, on a balance of probabilities, that the AAF resulted from the scenario he described. Consequently, the Rider has not validly demonstrated how the Prohibited Substances entered his system, as required by Article 10.5 and 10.6 of the UCI ADR in order to benefit from any elimination or reduction of the period of ineligibility. Therefore, the standard sanction applicable on the Rider shall neither be eliminated nor reduced.

84. For the sake of completeness and even if no specific allegations have been made by the Rider in this respect, the Single Judge also considers that the Rider did not establish that the ADRV was not intentional. Apart from bearing in mind the Comment to Article 10.2.1.1 of the UCI ADR, the Single Judge shall recall that "*there exists an extensive and consistent line of CAS awards holding that establishing the origin of the Prohibited Substance is a crucial, almost indispensable element for an athlete to disprove intent, the absence of which leaves only "the narrowest of corridors through which such athlete must pass to discharge the burden which lies upon him" (CAS 2017/A/5016 & 5036 -Abdelrahman- para. 123, CAS 2020/A/7068 -Iannone- para. 134). On the contrary, there are only a few cases at CAS that would comfortably support a deviation from this general rule that the athlete is highly unlikely to be able to disprove intent in the absence of a credible identification of the source. These few cases (inter alia, CAS 2016/A/4534 and CAS 2020/A/7579 & 7580) in which a lack of intent can be affirmed without the athlete establishing the source of the Prohibited Substance are outliers. No one case is exactly the same as another and it will inevitably present its own human, factual, and scientific particulars that invite a substantial degree of caution from Panels when determining how and to what extent the reasoning in those outlier cases can be extended to other circumstances. Cases such as Jack, where the non-intentional character of the ADRV is established in the absence of establishing the source of the Prohibited Substance, are, by large, exceptional cases*" (CAS 2023/A/9377). It is the Single's Judge's view that the present case is not one of those exceptional cases, being it very revealing that the Rider did not specifically elaborate on such an alleged exceptionality.

85. Finally, with regard to the allegations of the Rider on the necessary proportionality of the sanction, the Single Judge shall recall the CAS jurisprudence (inter alia, CAS 2022/A/8811, CAS 2017/A/5051 & 5110, or CAS 2016/A/4643) in accordance to which "*the WADA Code has been found repeatedly to be proportional in its approach to sanctions, and the question of fault has already been built into its assessment of length of sanction*".

86. Accordingly, the Single Judge confirms that the applicable period of ineligibility to be imposed on the Rider is four (4) years.

87. In relation to the commencement of the period of ineligibility, Article 10.13 of the UCI ADR stipulates in the pertinent part that:

> *"*[…], *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.* […]
>
> *10.13.2.1 If a Provisional Suspension is respected by the Rider or other Person, then the Rider or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If the Rider or other Person does not respect a Provisional Suspension, then the Rider or other Person shall receive no credit for any period of Provisional Suspension served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Rider or other Person shall receive a credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal*. […]*".*

88. In accordance with this article, the period of ineligibility shall start on the date of the final decision imposing such Ineligibility, with credit given for the period of any provisional suspension if and to the extent it was respected by the Rider.

89. In the case at stake, on 7 February 2024, the Rider was informed of a mandatory provisional suspension imposed on him. It is not disputed between the Parties that the Rider observed the terms of such suspension and that, therefore, he must receive credit for the time so served.

2. Disqualification of results

90. The UCI requests the Single Judge to disqualify all results obtained by the Rider between 27 November 2023 and 7 February 2024 (the date on which the Rider was informed of the mandatory provisional suspension imposed on him).

91. Article 10.10 of the UCI ADR provides as follows:

> *"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 Rider obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other antidoping 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."*

92. The aforementioned provision stipulates the Disqualification of all results from the date the ADRV occurred until the date the Provisional Suspension was imposed, unless "*fairness requires otherwise*".

93. Considering that (i) the Rider's defense has been rejected, (ii) no specific allegations have been made by the Rider on the potential existence of reasons of fairness enabling to deviate from the effects foreseen in Article 10.10 of the UCI ADR, and (iii) the Single Judge does not see a reason that would justify a derogation from the principle set forth in the aforementioned article, the Single Judge finds that the Rider's results from 27 November 2023 until 7 February 2024, if any, shall be disqualified.

3. Mandatory Fine and Costs

94. Article 10.12.1 of the UCI ADR provides as follows:

"10.12.1 *In addition to the Consequences provided for in Article 10.1-10.10, violation under these Anti-Doping Rules shall be sanctioned with a fine as follows:*

10.12.1.1 A fine shall be imposed in case a Rider or other Person exercising a professional activity in cycling is found to have committed an intentional anti-doping rule violation within the meaning of Article 10.2.3.

[Comments: 1. A member of a Team registered with the UCI shall be considered as exercising a professional activity in cycling. 2: Suspension of part of a period of Ineligibility has no influence on the application of this Article].

10.12.1.2 The amount of the fine shall be equal to the net annual income from cycling that the Rider or other Person was entitled to for the whole year in which the anti-doping violation occurred. In the event that the anti-doping violation relates to more than one (1) year, the amount of the fine shall be equal to the average of the net annual income from cycling that the Rider or other Person was entitled to during each year covered by the anti-doping rule violation.

[Comment: Income from cycling includes the earnings from all the contracts with the Team and the income from image rights, amongst others.]

The net income shall be deemed to be 70 (seventy) % of the corresponding gross income. The Rider or other Person shall have the burden of proof to establish that the applicable national income tax legislation provides otherwise.

10.12.1.3 Bearing in mind the seriousness of the offence, the quantum of the fine may be reduced where the circumstances so justify, including:

1. *Nature of anti-doping rule violation and circumstances giving rise to it;*
2. *Timing of the commission of the anti-doping rule violation;*
3. *Rider or other Person's financial situation;*
4. *Cost of living in the Rider or other Person's place of residence;*
5. *Rider or other Person's cooperation during the proceedings and/or Substantial Assistance as per Article 10.7.1;*
6. *Rider's admission of the anti-doping rule violation in accordance with the requirements provided under Article 10.8.*

In all cases, no fine may exceed CHF 1,500,000.

10.12.1.4 For the purpose of this article, the UCI shall have the right to receive a copy of the full contracts and other related documents from the Rider or other Person, the auditor or relevant National Federation.

[Comment: No fine may be considered a basis for reducing the period of Ineligibility or other sanction which would otherwise be applicable under these Anti-Doping Rules]."

95. The Rider is a professional rider which has committed an ADRV and that did not establish that this ADRV was unintentional, which leads the Single Judge to conclude that the prerequisites for a fine are, therefore, fulfilled and that such a fine shall be imposed.

96. With respect to the amount of the fine to be imposed, the UCI submits in its Petition that the Rider was entitled to an annual gross income from cycling in 2023 of [redacted] as established in the Rider's 2023 employment contract. Therefore, according to the UCI, a mandatory fine of [redacted] representing 70% of the Rider's annual gross income, should be imposed.

97. The Rider argued that a fine of [redacted] is disproportionate, in particular bearing in mind that the AAF occurred on 27 November 2023, when his contract with Lidl–Trek had almost effectively concluded, and that his new employment contract with UCI Continental Team Sabgal/Anicolor (Clube Desportivo Fullracing) signed in 2024 provides for an annual gross income of [redacted].

98. In its Reply, the UCI acknowledged that the fine may be reduced if the circumstances so justify and stated that it would be open to reducing the fine to [redacted]—provided that such a reduction was duly substantiated.

99. In light of the above, and taking into account that the Rider's salary under the contract signed in January 2024 (that is to say, before knowing about the AAF) with Clube Desportivo Fullracing is approximately [redacted]—a contract which, by the way, has been suspended without pay since February 2024—the Single Judge considers it reasonable and proportionate to reduce the fine to [redacted].

100. Finally, in relation to the Liability for Costs of the Procedures, Article 10.12.2 of the UCI ADR reads as follows:

> *10.12.2 Liability for Costs of the Procedures*
>
> *If the Rider or other Person is found to have committed an anti-doping rule violation, he or she shall bear, unless the UCI Anti-Doping Tribunal determines otherwise:*
>
> *1. The cost of the proceedings as determined by the UCI Anti-Doping Tribunal, if any.*
>
> *2. The cost of the Results Management by the UCI; the amount of this cost shall be CHF 2'500, unless a higher amount is claimed by the UCI and determined by the UCI Anti-Doping Tribunal.*
>
> *3. The cost of the B Sample analysis, where applicable.*
>
> *4. The costs incurred for Out-of-Competition Testing; the amount of this cost shall be CHF 1'500, unless a higher amount is claimed by the UCI and determined by the UCI Anti-Doping Tribunal.*
>
> *5. The cost for the A and/or B Sample laboratory documentation package where requested by the Rider.*
>
> *6. The cost for the documentation package of Samples analyzed for the Biological Passport, where applicable.*
>
> *If the Rider or other Person admits the anti-doping rule violation in accordance with the requirements provided under Article 10.8, the UCI may waive the reimbursement of these costs in whole or in part. The factors listed under 10.12.1.3 may also be considered in relation to a possible reduction of costs under this provision.*

The National Federation of the Rider or other Person shall be jointly and severally liable for its payment to the UCI.

101. The UCI is requesting the Tribunal to condemn the Rider to pay the following amounts in this respect:

- CHF 2'500.- for costs of the results management; and
- CHF 1'500.- for costs incurred for Out-Of-Competition Testing.

102. The costs for the results management and Out-Of-Competition Testing claimed by the UCI are in line with those foreseen in Article 10.12.2 of the UCI ADR.

103. In light of the aforementioned the Single Judge considers that the Rider shall pay the amounts claimed by the UCI as listed above and condemns the Rider to pay them.

VII. COSTS OF THE PROCEEDINGS

104. Article 29 of the ADT Rules provides as follows:

1. *The Tribunal shall determine in its judgment the costs of the proceedings as provided under Article 10.12.2 para. 1 ADR.*
2. *As a matter of principle the Judgment is rendered without costs.*
3. *Notwithstanding the above, the Tribunal may order the Defendant to pay a contribution toward the costs of the Tribunal. Whenever the hearing is held by video-conference, the maximum participation is CHF 7'500.*
4. *The Tribunal may also order the unsuccessful Party to pay a contribution toward the prevailing Party's costs and expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and experts. If the prevailing Party was represented by a legal representative the contribution shall also cover legal costs.*

105. In light of all the circumstances of this case, the Single Judge decides that the present Judgment is rendered without costs and that each party shall bear its own costs in these proceedings.

VIII. RULING

106. In the light of the above, the Tribunal decides as follows:

1. **Mr. Antwan Tolhoek has committed an Anti-Doping Rule Violation (Article 2.1 of the UCI ADR).**

2. **Mr. Antwan Tolhoek is imposed a Period of Ineligibility of four (4) years. The period of Ineligibility shall commence on the date of the decision, i.e. 14 July 2025. However, considering the credit for the period of the provisional suspension already served by Mr. Antwan Tolhoek since 7 February 2024, his period of Ineligibility effectively began on said date and shall end four (4) years from this date, i.e. 6 February 2028 inclusive.**

3. **All the results obtained by Mr. Antwan Tolhoek from 27 November 2023 until 7 February 2024 are disqualified.**

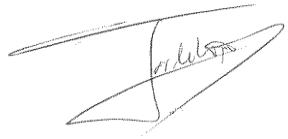
4. **Mr. Antwan Tolhoek is ordered to pay to the UCI the amount of [redacted] as a monetary fine.**

5. **Mr. Antwan Tolhoek is ordered to pay to the UCI the amount of CHF 2,500 for the costs of results management, and the amount of CHF 1,500 for costs incurred for Out-Of-Competition Testing.**

6. **All other and/or further-reaching requests are dismissed:**

   a) **Mr. Antwan Tolhoek;**
   b) **The Andorran Cycling Federation;**
   c) **UCI ; and**
   d) **WADA.**

107. This Judgment may be appealed before the CAS pursuant Article 31.2 of the ADT Rules and Article 74 of the UCI Constitution. The time limit to file the appeal is governed by the provisions in Article 13.2.5 of the UCI ADR.



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Jordi López Batet
Single Judge