

CAS 2008/A/1664 Appeal by IRB v Mr Luke Troy & ARU

FINAL ARBITRAL AWARD

rendered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Malcolm **Holmes** QC, Sydney, Australia
Arbitrators: Mr Alan **Sullivan** QC, Sydney, Australia
Mr David **Williams** QC, Auckland, New Zealand
CAS Clerk: Miss Katharine Lee, Sydney, Australia

between

INTERNATIONAL RUGBY BOARD (IRB), Dublin, Ireland
represented by Ms Susan Ahern, IRB Legal Counsel, Dublin, Ireland

- Appellant -

and

Mr Luke Troy (MR TROY), Newcastle, Australia
represented by Mr Paul J. Hayes, Barrister, Melbourne, Australia
instructed by Mr Scott Francis, Deacons, Sydney, Australia

- Respondent -

and

AUSTRALIAN RUGBY UNION LIMITED (ARU), Sydney, Australia
represented by Mr Tony O'Reilly, Kennedys, Sydney, Australia

-Affected Party-

Date of Award: 6 August 2009

As to Sanction

1. By a Partial Arbitral Award delivered by the Panel on 2 June 2009 the appeal of the Appellant against the decision of the ARU judicial committee of 12 March 2008 was in part allowed and the decision of the ARU judicial committee was set aside.
2. By its Award the Panel ruled that Mr Troy had committed an anti-doping rule violation pursuant to By-Law 5.2.2 of the ARU Anti-Doping By-Laws by engaging in conduct pursuant to which he sought to acquire "Prohibited Substances" over the internet.
3. It was further ruled by that Award that the question of sanction be reserved and directions were given as to the filing in the CAS Oceania Registry of written submissions by the parties as to sanction.

Submissions

4. The Appellant filed short written submissions as to sanction. The Affected Party filed a short written submission noting that it had no further submission to make as to sanction other than that which was already addressed in paragraph 33 of the Answer of the Affected Party. The Respondent did not file any written submissions as to sanction.
5. The Appellant, in short, claimed that it had no objection to the period of provisional suspension being credited against the total period of sanction to be imposed on the Respondent.

Determination

6. Having considered the submissions made on the question of sanction, we are of the view to impose a sanction of two years from the date of the Partial Arbitral Award delivered by the Panel on 2 June 2009 taking into account the period of 1 February 2008 until 28 February 2008 during which time Mr Troy was provisionally suspended and deduct this time from the end date of the sanction imposed.

ON THESE GROUNDS

The Court of Arbitration for Sport Rules, for the reasons given, that:

1. The period of ineligibility of Mr Luke Troy will be two years from 2 June 2009.
2. The period of ineligibility of Mr Luke Troy referred to in order 1 above will be reduced by a period of 28 days and will terminate on 5 May 2011.
3. As agreed between the parties, each party will pay its / his own costs of the appeal.

Delivered in Sydney, 6 August 2009

THE COURT OF ARBITRATION FOR SPORT

Mr Malcolm **Holmes** QC
President of the Panel

Mr Alan **Sullivan** QC
Arbitrator

Mr David **Williams** QC
Arbitrator