

**IN THE MATTER OF PROCEEDINGS BROUGHT BY THE INTERNATIONAL TENNIS
INTEGRITY AGENCY UNDER THE 2024 TENNIS ANTI-DOPING PROGRAMME**

Before:

Clifford J. Hendel

BETWEEN:

INTERNATIONAL TENNIS INTEGRITY AGENCY

Anti-Doping Organisation

– and –

ARSLANBEK AITKULOV

Respondent

DECISION OF THE INDEPENDENT PANEL

A. INTRODUCTION

1. This is the final decision of the Independent Panel pursuant to the 2024 Tennis Anti-Doping Programme (“TADP”) to determine a charge brought on 17 September 2024 by the International Tennis Integrity Agency (“ITIA”) – an independent body established by the international governing bodies of tennis to promote, encourage, and safeguard the integrity of professional tennis worldwide – against Mr Arslanbek Aitkulov (“the Player”), and together with the ITIA, (the “Parties”), a 21-year-old Kazakh International-Level tennis player, with a career-high singles ranking of 1250, achieved in November 2023.

2. The Player has been charged with Anti-Doping Rule Violations (“ADRVs”) under Articles 2.1 and 2.2 of the TADP (the “Charge”), as a result of the presence of Metabolites of LGD-4033 (Ligandrol) and of 5-Methylhexan-2-amine (Methylhexanamine) that were detected in a urine Sample (“Sample”), collected during his participation in the World Tennis Tour M15 tournament held in Doha, Qatar, between 8 and 14 January 2024 (the “Event”).
3. Ligandrol is a Prohibited Substance in the category of Anabolic Agents in the WADA Prohibited List (section S1.2). Ligandrol is a Non-Specified Substance which is prohibited In and Out-of-Competition.
4. Methylhexanamine is a Prohibited Substance in the category of Stimulants in the WADA Prohibited List (section S6.B). Methylhexanamine is a Specified Substance which is prohibited In-Competition only.
5. The Player does not dispute that these Prohibited Substances were in his urine and thus does not dispute that he committed the ADRV in question. However, he argues that the period of Ineligibility to be imposed on him as a consequence of the ADRVs should be reduced (from four (4) years to two (2) years) on the basis that there was no intent to commit the ADRVs.
6. The Player has been Provisionally Suspended since 23 March 2024.
7. The Independent Tribunal is grateful to both Parties and their representatives for their helpful written and oral submissions, and for their collaboration in the management of these proceedings.

B. LEGAL FRAMEWORK

8. The ITIA has charged the Player with violations of TADP Article 2.1, which states that the following constitutes an ADRV: *“The presence of a Prohibited Substance or any of its Metabolites or Markers in a Player’s Sample, unless the Player establishes that such presence is consistent with a TUE [Therapeutic Use Exemption] granted in accordance with Article 4.4”,* it being *“each Player’s personal duty to ensure that no Prohibited Substance enters their body”*.

9. The ITIA has also charged the Player with TADP Article 2.2 ‘Use’ violations, involving *“Use or Attempted Use by a Player of a Prohibited Substance or a Prohibited Method, unless the Player establishes that such Use or Attempted Use is consistent with a TUE granted in accordance with Article 4.4”*, it being *“each Player’s personal duty to ensure that no Prohibited Substance enters their body”*.

10. ADRVs under both TADP Article 2.1 and 2.2 require that the Independent Tribunal, convened to hear and determine the matter, be comfortably satisfied that the ITIA has established each of the elements of the ADRVs charged. Both are Strict Liability offenses, with no requirement that the ITIA proves the source of the Prohibited Substance. In particular, both articles provide that *“it is not necessary to demonstrate intent, Fault, Negligence or knowing Use on the Player’s part in order to establish an [ADRV...]; nor is the Player’s lack of intent, Fault, Negligence or knowledge a defence to an assertion/a charge that an [ADRV] has been committed.”*

11. TADP Article 10.2 provides that

“10.2 *Imposition of a period of Ineligibility for presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method*

The period of Ineligibility imposed for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Player’s [...] first doping offence will 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 will be four years:*

10.2.1.1 *where the Anti-Doping Rule Violation does not involve a Specified Substance or a Specified Method, unless the Player [...] establishes that the Anti-Doping Rule Violation was not intentional; and 10.2.1.2 where the Anti-Doping Rule Violation involves a Specified Substance or a Specified Method and the ITIA can establish that the Anti-Doping Rule Violation was intentional.*

10.2.2 *If Article 10.2.1 does not apply, then [...] the period of Ineligibility will be two years.”*

Thus, the benchmark sanction for Ligandrol (Non-Specified Substance) is four (4) years of Ineligibility, unless the Player rebuts the presumption of intentionality, in which case the sanction is reduced to two (2) years. On the other hand, the benchmark sanction for Methylhexanamine (Specified Substance) is two (2) years of Ineligibility, unless the ITIA can establish that the Player intentionally doped (in which case it would be increased to four (4) years).

12. TADP Article 10.2.3 provides a two-pronged definition of “*intentional*”, so as to capture both conscious doping and reckless disregard of significant risks that could result in an ADRV:

“As used in Article 10.2, the term ‘intentional’ is meant to identify those Players [...] who engage in conduct that 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.”

13. TADP Article 10.5 provides for the elimination of the period of Ineligibility on the grounds of No Fault or Negligence. TADP Article 10.6 provides for the reduction of the period of Ineligibility on the grounds of No Significant Fault or Negligence.

14. The terms “*No Fault or Negligence*” and “*No Significant Fault or Negligence*” are defined in APPENDIX ONE (DEFINITIONS) of the TADP as follows:

*“No Fault or Negligence. The Player or other Person establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they 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 Player must also establish how the Prohibited Substance entered their system.**”* (emphasis added)

*“No Significant Fault or Negligence. The Player or other Person establishing that their Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the Anti-Doping Rule Violation. Except in the case of a Protected Person or Recreational Athlete, **for any violation of Article 2.1 the Player must also establish how the Prohibited Substance entered their system.**”* (emphasis added)

15. When a sanction is imposed, the period of Ineligibility starts on the date that the decision is issued, provided that any period of Provisional Suspension served by the player must be credited against the total period of Ineligibility to be served (TADP Article 10.13.2.1).
16. Further, TADP Article 9.1 provides that an ADRV committed by a player in connection with or arising out of an In-Competition test automatically leads to Disqualification of the results obtained by the player in the Competition in question.
17. For purposes of imposing sanctions under TADP Article 10.9, TADP Article 10.9.4.1 establishes that both ADRVs will be considered together and the sanction imposed will be based on the ADRV that carries the more severe sanction (in this case, four (4) years of Ineligibility for the violation involving Ligandrol, a non-Specified Substance).

C. SUMMARY OF FACTS AND PROCEDURAL BACKGROUND

18. From 8 until 14 January 2024, the Player took part in the Event.
19. On 10 January 2024, the Player was informed that he had been randomly selected for a doping control test and accordingly an In-Competition urine Sample was collected.
20. The analysis of the Player's A Sample was carried out by the WADA-accredited laboratory, Laboratoire de contrôle de dopage, INRS, located in Montreal, Canada (the "Laboratory"). On 13 February 2024, the Laboratory reported the findings of Ligandrol and Methylhexanamine.
21. On 14 March 2024, the ITIA sent the Player a formal notice (the "Pre-Charge Notice") that he may have committed an ADRV under Articles 2.1 and/or 2.2 of the TADP on the basis that both a Metabolite of LGD-4033 and 5-Methylhexan-2-amine were found in his Sample. The Player was given the opportunity to respond and was advised of the consequences of the ADRV. The Player was also advised that he was Provisionally Suspended with effect from 23 March 2024.

22. On 20 March 2024, the Player's B Sample was analysed. The analysis of the Player's B Sample confirmed the findings of his A Sample. The Player did not have a TUE for either Prohibited Substance.

23. The Player provided a response to the Pre-Charge Notice via the TADP Portal on 27 March 2024, in which he admitted the charges, but disputed the Consequences. The Player mentioned, among other things, the possibility of contamination from meat ingested in Qatar or in the supplements that he took, his prior negative tests when using the same supplements, and his desire and intention to investigate the source or sources of the Prohibited Substances. His response provided as follows:

"Dear ITIA,

I hereby acknowledge the charges brought against me. However, I am eager to understand the circumstances surrounding the presence of the doping substances in my system. All the supplements I was consuming was purchased from the same reputable sports shop, Megapit.kz. These include Vitamin C, Omega-3, and Bcaa XTend (a sports drink), the latter of which is accompanied by a certificate of analysis (please refer to the attached document). Furthermore, according to the packaging and my cross-checking via the Anti-doping app, none of these supplements contain any prohibited substances. I have also provided photographic evidence of the supplements in question for your reference.

It is important to note that prior to the Asian Games, I underwent a doping test in Astana in September 2023, during which I tested negative. At that time, I was already consuming Bcaa Xtend, that I purchased in Doha, during matches. I experienced no stimulant effects from these supplements, nor did they yield any noticeable impact on my performance. Should it be necessary, I am more than willing to provide the Bcaa Xtend supplement for further analysis. The second Bcaa Xtend I purchased in Kazakhstan.

On the day of the anti-doping testing, I was emotionally affected by a loss in a match, which led to an oversight on my part. Regrettably, I failed to declare all the supplements I had consumed, omitting mention of Omega-3. Despite my best efforts, it took three attempts to collect a sufficient sample during testing, owing to my heightened state of anxiety.

I also wish to bring to your attention the possibility of contamination in the meat I consumed every day for dinner at [REDACTED] restaurant [REDACTED] during the Doha

tournament. This could potentially explain the presence of the banned substances in my system.

My team and I are currently investigating possible ways for the banned substances to enter my body, and I humbly request that you allow us more time to conduct a thorough investigation and collect sufficient evidence. I also intend to seek legal advice from a lawyer. Thank you for your understanding and consideration."

24. On 17 September 2024, the ITIA sent the Player a Notice of Charge which advised that he was being charged with the commission of ADRVs under TADP Articles 2.1 and/or 2.2 on the basis that a Metabolite of LGD-4033 (a SARM) and 5-Methylhexan-2-amine were found to be present in his urine Sample collected during the Event. The Player was advised of his options and the Consequences of an ADRV.

25. On 8 October 2024, the Player wrote to the ITIA stating, *inter alia*, the following:

"[...] I acknowledge the presence of LGD-4033 and 5-Methylhexan-2-amine in my body and fully accept responsibility for this violation due to my negligence. However, I firmly believe that these substances entered my body unintentionally, and I respectfully request that the Independent Tribunal consider this fact and reduce my sanction to two years. [...]"

26. On 18 November 2024, the ITIA referred the case to the Independent Panel, pursuant to TADP Article 8, to determine what Consequences (if any) should be imposed.

27. On 22 November 2024, Mr Clifford J. Hendel was appointed pursuant to TADP Article 8.1 of the Independent Tribunal to hear this case. Neither of the Parties has raised any objections to his appointment.

28. On 18 December 2024, a procedural timetable was agreed between the Parties and embodied in Directions.

29. Pursuant to the Directions, the Parties subsequently agreed that Mr Hendel could hear the case as Chair alone, without two additional Tribunal members.

30. On 3 June 2025, the Parties jointly requested that the hearing be held virtually rather than in-person, as originally contemplated in the Directions.

31. During these proceedings, the Player has acknowledged that he has not been able to demonstrate the exact origin of the Prohibited Substances in his system on the date of the Sample collection.

D. PARTIES' BRIEFS

32. The Player's position, as confirmed at the hearing, is set out in his Submissions dated 7 March 2025, which provide in relevant parts as follows:

"[...]

38. *In this case, the ITIA has adduced no evidence that the presence of Methylhexanamine in Mr Aitkulov's system was as a result of intentional use, nor has any suggestion been made that the ITIA seeks to discharge its burden of proof in this regard. In those circumstances, Article 10.2.2 of the TADP provides that "the period of Ineligibility will be two years". Mr Aitkulov does not seek to reduce this period any further by way of a plea of No (or No Significant) Fault or Negligence.*

b. Ligandrol

39. *The burden of proof in relation to Ligandrol is reversed – as set out above, Ligandrol is a non-Specified substance and Article 10.2.1 of the TADP therefore provides that the period of Ineligibility will be four years unless Mr Aitkulov establishes that the ADRV was not intentional. For these purposes, Article 10.2.3 provides that "the term 'intentional' is meant to identify those Players or other Persons who engage in conduct that 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". This idiosyncratic definition of intentionality is often considered to encompass (and is often given the shorthand of) "intentional" and "reckless" conduct.*

40. *Article 3.1.2 of the TADP states that, where the burden of proof is on the player to rebut the presumption of intentionality, the standard of proof "will be by a balance of probability".*

41. *The possibility that an athlete can discharge this burden of proof in circumstances where they are not able to prove the source of the Prohibited Substance in their system has been the source of much debate. It is, however, succinctly and accurately summarised by the panel in the WADA v. Jack appeal as follows: athletes who are seeking to prove a lack of intent “will find it significantly more difficult but not impossible to succeed if they are unable to show how they came into contact with the Prohibited Substance”.*
42. *Put differently, references in the jurisprudence to the “narrowest of corridors” available to an athlete in this scenario do not in any way alter the burden or standard of proof. Rather, they simply reflect the difficulty of proving a negative in the absence of proof of source.*
43. *Accordingly, the Panel in this case must assess the evidence and consider whether it is more likely than not that the athlete can disprove (a) culpable intent or (b) recklessness. In doing so, the panel in Lawson v. IAAF structured its analysis (later approved by the panel in WADA v. Jack) in a manner that “(i) begins with the science and then (ii) considers the totality of the evidence (iii) through the prism of common sense, possibly (iv) “bolstered” by the athlete’s credibility”. It is submitted that this is the appropriate analysis – it starts by giving the most weight to the objectively provable factors, before considering other more subjective factors, and giving them the appropriate degree of weight in the circumstances.*

[...]

vi. Conclusion in relation to Ligandrol

63. *There are three realistic explanations for the presence of Ligandrol in Mr Aitkulov’s system:*
- a. *In **Scenario A**, Mr Aitkulov intentionally took Ligandrol as part of a doping regime. However, a micro-dosing regime has expressly been excluded by the science. A more conventional, high-dose regime is also extremely unlikely given that it would (i) have no physiological effect, (ii) be of no use to Mr Aitkulov’s tennis game even if it did have a physiological effect, (iii) require Mr Aitkulov to smuggle or purchase controlled substances in Qatar, where the penalties for such conduct are extremely severe, and (iv) have to have been commenced and*

discontinued following only a single dose (in order to produce a negative nail test). Scenario A makes no sense, is inherently unlikely, and can be discounted.

- b. In **Scenario B**, Mr Aitkulov has suffered from supplement contamination. Scenario B is excluded by the science.*
- c. In **Scenario C**, Ligandrol has entered Mr Aitkulov's system by some unknown route. Mr Aitkulov has suggested that one possibility could have been the communal water container he used in his hotel gym. However, given the communicability of Ligandrol, this is only one of an almost infinite number of possibilities. Given that Scenarios A and B have been discounted by the science and the inherent improbability of the deliberate, high-dose regime scenario, Scenario C is most likely – and crosses the threshold of being likely on the balance of probabilities.*

64. This exclusionary approach is entirely legitimate. Indeed, in CCES v. Jamnicky, the panel found that, having excluded all other scenarios or “pathways”, the only remaining pathway (the “Meath Pathway” i.e. consumption of contaminated meat) was “the only reasonable possible and credible explanation for the Athlete’s AAF and is more likely than not to have occurred”. The panel went on to find that the athlete had successfully established the source of clostebol in her system.

65. Mr Aitkulov does not ask this Panel to go that far. However, once the intentional and any reckless pathways, Scenario A and Scenario B, are excluded, the only possible route for Ligandrol to have entered Mr Aitkulov’s system is via Scenario C. That is not mere speculation – the process is backed by objective scientific and appropriate logical reasoning. As the panel in WADA v. Jack concluded:

“It will never be known how the Athlete came into contact with the Prohibited Substance, but the hypothesis that she did so innocently seems on balance more likely than that she either intended to take this Substance or was recklessly oblivious to the risk of contamination in the course of her activities”.

66. Although Mr Aitkulov continues to seek to establish the source of Ligandrol in his system, like Ms Jack he may never know how he came into contact with it. Like Ms Jack, the hypothesis that he did so innocently (Scenario C) is more likely than the

hypothesis that he did so intentionally or recklessly (Scenario A or, potentially, Scenario B), and it is probable for the purposes of the requisite standard, namely the balance of probabilities.

[...]”

33. The Player provided an expert report (the “Kintz Report”) issued by Professor Pascal Kintz, of X-Pertise Consulting, which stated in summary that:

- a. *“The window of drug detection in toenail clippings is up to 12 months before the collection date.”* The testing is therefore apt to cover the Event and the Sample collection on 10 January 2024, going back to the date 12 months prior to the collection of the toenail sample on 16 November 2024 (i.e. 17 November 2023).
- b. No Ligandrol was identified in Mr Aitkulov’s toenail sample, *“demonstrate[ing] that Mr Arslanbek Aitkulov did not use repetitively ligandrol the last full year (12 months) before toenail clippings collection”*.
- c. Methylhexanamine *“was detected in the toenail clippings at 279 pg/mg, indicating that Mr Arslanbek Aitkulov was exposed to the drug during the last year”*.

34. In particular, as regards Ligandrol, the Kintz Report concluded that

- a. *“The negative nail test of Mr Arslanbek Aitkulov, with a limit of detection of 1 pg/mg does not support repetitive administration of ligandrol”, and*
- b. *“a single dose is possible but unlikely to have any pharmacological effect (ligandrol must be used repetitively)”*.

35. The Player concluded his Submissions as follows:

“73. Mr Aitkulov has, since the inception of this matter, accepted that he has committed the ADRVs in question. He now also accepts that, despite his considerable efforts, he is unable to prove the source of the Prohibited Substances in his system. Those are eminently reasonable concessions to make. However, Mr Aitkulov maintains that he has never intentionally or recklessly come into contact with a Prohibited Substance.

74. *As regards Methylhexanamine, the burden of proving intentionality is on the ITIA and it has not discharged that burden. The appropriate sanction is, therefore, two years Ineligibility.*

75. *As regards Ligandrol, despite Mr Aitkulov's inability to prove source, the only scenario which is capable of being more likely than not is the explanation advanced by Mr Aitkulov, namely some unknown inadvertent contamination. As a result, he has discharged his burden of proving a lack of intentionality and the appropriate sanction is, again, two years.*

76. *These ADRVs are treated as a single ADRV pursuant to TADP Article 10.9.4.1, and Mr Aitkulov should be given credit for the period he has been provisionally suspended, meaning the two-year period of Ineligibility runs from 23 March 2024 to midnight on 22 March 2026."*

36. The ITIA's position, as confirmed at the hearing, is set out in its Submissions dated 11 April 2025, which provide in relevant parts as follows:

"[...]

31. *The ITIA respectfully submits that in determining the issues in the case, the Chair must be satisfied on the balance of probabilities, that the Player has proved that:*

- a. He did not knowingly or willingly consume Ligandrol; or*
- b. He did not engage in conduct that constituted a significant risk that he would commit an ADRV and manifestly disregarded it.*

[...]

38. *In summary, the Player has considered an inordinate number of possibilities in order to attempt to identify source, all of which are entirely speculative and without any reliable evidential basis. These possibilities have ranged initially, from any number of supplements, to a focus on the Xtend BCAA supplement, meat contamination, blister balm cream, and finally water contamination in a hotel gym.*

[...]

47. *The ITIA respectfully submit that the science in this case is clear:*

- i) The Player has committed multiple ADRVs on the basis of two separate and distinct Prohibited Substances having been found in his system.*
 - ii) The Player has been unable to identify source in respect of either substance, but instead has put forward a number of purely speculative assertions without any real evidential basis.*
 - iii) The urine concentrations in the Player's samples are inconsistent with contamination and likely indicate recent administration of the Prohibited Substances.*
 - iv) There is simply no sound evidential basis for forming any conclusion as to the nature or frequency of the use of the substances on the basis of the nail analysis.*
 - v) The nail analysis therefore does not hold any probative value and is purely speculative.*
- 48. It is on this basis, that the ITIA submits that the issue of intentionality starts and stops here; the Player has failed to discharge the burden that the ADRVs were intentional on the basis of the science alone.*

[...]"

37. The ITIA provided an expert opinion of Jean-François Naud, *Directeur du Laboratoire de contrôle de dopage, Centre Armand-Frappier Santé Biotechnologie*, which disagreed with the conclusions of the Player's expert, Professor Kintz, essentially for the following reasons:

- a. The concentrations of both substances found in the Player's urine were not low, as stated by Professor Kintz, but rather quite high, and thus inconsistent with contamination.
- b. No scientific literature exists concerning the detection of the substances via toenail clippings rendering it impossible to draw conclusions from Professor Kintz' analysis.
- c. It is not possible to deduce the frequency of use of the substances from a random urine sample.
- d. The results most likely reflect a recent administration of both substances.

38. The ITIA concludes its Submission with a section entitled “**SANCTION**” providing as follows:

“73. For all the aforementioned reasons, the Chair is invited to find that:

Ligandrol

- i. The Player has committed an ADRV pursuant to Articles 2.1 and/or 2.2 of the TADP by virtue of the presence and/or use of a Prohibited Substance, namely Ligandrol, in the sample provided on 10 January 2024;*
- ii. The Player has not discharged the burden on him under Article 10.2.1.1 of the TADP, to establish that the ADRV was not “intentional”, within the meaning of Article 10.2.3 of the TADP;*
- iii. A period of Ineligibility of four years is imposed under Article 10.2.1.1 of the TADP, such period to run from 23 March 2024.*

Methylhexanamine

- i. The Player has committed an ADRV pursuant to Articles 2.1 and/or 2.2 of the TADP by virtue of the presence and/or use of a Prohibited Substance, namely Methylhexanamine, in the sample provided on 10 January 2024;*
- ii. The ITIA has not sought to establish that the ADRV was “intentional”, within the meaning of Article 10.2.3 of the TADP;*
- iii. A period of Ineligibility of two years is imposed under Article 10.2.1.2 of the TADP, such period to run from 23 March 2024.*

*74. Pursuant to Article 10.9.4.1, both ADRVs will be considered together as one single ADRV that carries the more severe sanction, namely **a period of Ineligibility of four years**.*

Disqualification of Results

75. Pursuant to Article 9.1 and 10.1 of the TADP, there shall be automatic Disqualification of the results obtained by the Player in the World Tennis Tour M15 tournament, with all resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money obtained by the Player in that Competition (and in the other Events in that Competition, where applicable).

76. Finally, in accordance with Article 10.10 of the TADP, in addition to the Disqualification of Results set out above, “any other results obtained by the Player in Competitions taking place in the period starting on the date the Sample in question was collected or other Anti-Doping Rule Violation occurred and ending on the commencement of any Provisional Suspension or Ineligibility period, will be Disqualified, with all of the resulting consequences, including forfeiture of any medals, titles, ranking points and Prize Money)”.

E. THE HEARING

39. The hearing was held remotely on 30 June 2025. It was attended by the following people: For Respondent, the Player, Arslanbek Aitkulov, and acting as Counsel, his sister, Aigerim Aitkulova; for the ITIA, Amina Graham, external Counsel, Katy Stirling and Nicole Sapstead; for the Sport Resolutions’ Secretariat, Raffaella Prouet. The Independent Tribunal comprised (solely, as agreed by the Parties as indicated above) of Clifford J. Hendel. David Miley, Tennis Director of the Kazakhstan Tennis Federation (who testified on behalf of the Player) and Jean-François Naud, Directeur du Laboratoire de contrôle de dopage, Centre Arnaud-Frappier Santé Biotechnologie (who testified as expert for the ITIA). Translators attended as well, as the Player testified in his native language (Russian).

40. The Player’s testimony is summarised, in pertinent parts, as follows:

- He never used doping substances and never tested positive before
- He provided a Sample during the 2023 Asian Games, which returned a negative result. He had continued to use the same supplements and therefore had every reason to believe that when he was tested in Doha, on 10 January 2024, the Sample would return a negative result.
- He spent considerable time, effort, and money trying to establish source once he learned of the negative test results – retaining experienced English Counsel and obtaining a toenail clipping analysis from an expert in the field.
- The supplements had been recommended by his coach (he “told me to take it and I did”) and were taken in reliance on that recommendation; the Player did not conduct

an Internet search of the ingredients or check to confirm that the supplements did not contain prohibited ingredients.

- He acknowledged that he lacked the appropriate diligence in connection with, *inter alia*, checking the contents of the supplements he was taking, keeping them and their packaging for possible use in the event a urine Sample tested positive, and in apparently drinking from glasses or cups used by others at the water fountain in the Doha hotel fitness centre.
- Indeed, in response to the ITIA's query, "[w]ould you agree that at the very least you were reckless or negligent when it came to avoiding committing an ADRV?" he answered affirmatively.

41. David Miley, Tennis Director of the Kazakhstan Tennis Federation and former Director of Development of the International Tennis Federation, testified on behalf of the Player. His testimony is outlined in abbreviated summary as follows:

- Based on his close relationship with the Player and his family over the course of some five (5) years, he is confident that the Player would not and did not intentionally take a Prohibited Substance.
- Moreover, given the Player's body type and physical tennis style, taking an anabolic agent like Ligandrol would make no sense; similarly, he is not the type of player for whom a stimulant, like Methylhexanamine, would make sense.
- The Kazakhstan Tennis Federation goes to great pains to educate its athletes in anti-doping matters, making sure they are well informed and check the contents ("*we are all the time reminding players*") of whatever they might be ingesting.
- It is a reality of life, however, that it is difficult for a young athlete on tour (especially without a support team) to always follow through on these directives.
- He believed the Player did his best but "*obviously*" made "*some kind of mistake*".

42. On behalf of the ITIA, Professor Naud testified regarding the Kintz Report and in support of his own written report presented along with the ITIA's Submissions. His submissions were essentially as follows:

- The concentrations of both substances found in the Player's urine Sample were not low, as stated by Professor Kintz, but rather quite high, and thus inconsistent with contamination.
- No scientific literature exists concerning the detection of the substances via toenail clippings rendering it impossible to draw conclusions from Professor Kintz's analysis.
- It is not possible to deduce the frequency of use of the substances from a random urine sample.
- The results most likely reflect a recent administration of both substances.

43. Professor Kintz did not testify at the hearing. The contents of his report are summarised in the excerpts from the Player's Brief above.

44. Professor Kintz's non-appearance at the hearing, and the lack of written response from him to Professor Naud's report, was attributed at the hearing to the Player's inability to finance such an appearance or response. The same reason was stated to explain the non-appearance of the English Counsel, who had been acting for the Player during the proceedings, but ceased to so act about one month before the hearing, at which the Player's sister acted as his representative.

F. DISCUSSION

45. As noted, the Player has not contested that he committed the ADRVs in question (presence and Use of Ligandrol and Methylhexanamine in his system), having expressly acknowledged presence in his 8 October 2024 response to the Notice of Charge and not having expressly contested Use therein or in these proceedings. As such, for practical purposes, the matter in dispute is whether the ADRV involving Ligandrol (a non-Specified

Substance) was “*intentional*” (as defined in TADP Article 10.2.3) in order to determine whether the applicable period of Ineligibility to be imposed shall be four (4) or two (2) years.

46. As set out above, TADP Article 10.2.1.1 provides for a reduction of the period of Ineligibility for an ADRV under TADP Articles 2.1 or 2.2 where the Player establishes that the ADRV was not intentional, and TADP Article 10.2.3 contains a definition of intentionality for these purposes.

47. For convenience, TADP 10.2.3 is set out again here:

“As used in Article 10.2, the term ‘intentional’ is meant to identify those Players [...] who engage in conduct that 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.”

48. The TADP thus provides a two-pronged definition of intent: on the one hand, conscious, knowing violations (i.e. “*doping*” as used colloquially or “*direct intent*” as occasionally mentioned in the jurisprudence); and on the other hand, manifest disregard of a known, significant risk of a violation (i.e. “*recklessness*” as used colloquially, or “*indirect intent*” as occasionally mentioned in the jurisprudence).

49. In order to rebut the presumption of “*intentionality*” – unlike in the case of reducing or eliminating periods of Ineligibility on the basis of No Fault or Negligence under TADP Article 10.5 or 10.6 – the Player is not required by the TADP or the jurisprudence to establish how the Prohibited Substances entered his system.

50. However, failing the establishment of source, rebutting the presumption under TADP Article 10.2.3 will be an exercise fraught with difficulty: the jurisprudence reflects a consensus that while rebuttal without proof of source is a “*theoretical possibility*”, in the absence of “*exceptional circumstances*” it would be “*highly unlikely*” or “*extremely rare*” to succeed, as it would involve “*the narrowest of corridors*” through which the athlete must pass. See, for example, CAS 2016/A/4534 (*Villanueva*) and CAS 2016/A/4676 and 2016/A/4919 (*Iqbal*).

51. In this regard, and despite the significant efforts the Player described having deployed in investigating the source of the Prohibited Substances, he was unable to establish the source of these substances in his system (as mentioned, the Player referred at various times to

various possible sources of contamination, including meat ingested at the Event in Qatar, supplements that he habitually took, and a communal water fountain in the fitness centre of the hotel in Qatar, but he was unable to establish any of these as the source).

52. In relation to the above, the Player makes reference to jurisprudence establishing that, even in circumstances where source has not been proved, the athlete can nonetheless discharge his burden as to non-intentionality, where “*exceptional circumstances*” are shown, as in the case (*CAS 2020/A/7579 World Anti-Doping Agency v. Swimming Australia, Sport Integrity Australia & Shayna Jack*).

53. The current state-of-play on the understanding and application of these provisions is well described in a lengthy extract of a 2022 academic article included in the 2023 decision to *UK Anti-Doping Limited v Khan (SR/238/2022)*, a decision not adduced by the Parties or discussed at the hearing but reflective of the substance of the other authorities adduced and discussed):

"11. In a paper by Rigozzi, Haas, Wisnosky, Viret on the 2015 World Anti-Doping Code the authors stated:

"The 2015 Code does not explicitly require an Athlete to show the origin of the substance to establish that the violation was not intentional. While the origin of the substance can be expected to represent an important, or even critical, element of the factual basis of the consideration of an Athlete's level of Fault, in the context of Article 10.2.3, panels are offered flexibility to examine all the objective and subjective circumstances of the case and decide if a finding that the violation was not intentional is warranted."

12. There is a very clear distinction between Article 10.2.1, which governs this case, and Articles 10.5 and 10.6 which permit the elimination or reduction of the period of Ineligibility on grounds of No Fault or No Significant Fault or Negligence. Those provisions are subject to an express requirement that 'the Athlete must also establish how the Prohibited Substance entered the Athlete's system', whereas Article 10.2.2 contains no such requirement. The Rigozzi article refers to WADA & UCI v Contador CAS 2011/A/2384 where a minuscule quantity of clenbuterol could not have been deliberately ingested or intended to enhance performance, and was thus inconsistent with the intentional use under the equivalent of Article 10.2.2. But in order for the Athlete to establish No (or No Significant) Fault or Negligence for presence of the substance the athlete had to prove its source.

13. *In this case the obligation imposed on the Athlete is to prove (a) that he did not know that the relevant conduct would constitute an ADRV, and (b) that he did not know that there was a significant risk that the conduct might constitute or result in an ADRV, and manifestly disregarded that risk. The special meaning of intentional in this context requires direct intent or, if recklessness is in question, indirect intent. The test is subjective, based on the Athlete's knowledge, and under Article 8.4.2 the required standard of proof is on the balance of probabilities. The 2021 World Anti-Doping Code ("2021 Code") had removed from Article 10.2.3 the words 'Athletes who cheat', thus removing any need to consider whether the athlete had any intent to enhance performance.*

14. *The revision to the 2021 Code introduced a comment to Article 10.2.1.1 in these terms:*

"While it is theoretically possible for an Athlete 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 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance."

[...]

15. *The jurisprudence is clear that proof of the source of the Prohibited Substance is not an essential threshold question which necessarily has to be proved in every case before the Athlete can satisfy Article 10.2.3. In **Villanueva v FINA** (CAS 2016/A/4534) at [37] the panel observed:*

"Furthermore, the Panel can envisage the theoretical possibility that it might be persuaded by an athlete's simple assertion of his innocence of intent when considering not only his demeanour, but also his character and history..... That said, such a situation would inevitably be extremely rare. Even on the persuasive analysis of Rigozzi, Haas et al., proof of source would be 'an important, even critical' first step in any exculpation of intent. Where an athlete cannot prove source it leaves the narrowest of corridors through which such athlete must pass to discharge the burden which lies upon him."

[...]"(Footnotes omitted)

54. Here, the Tribunal finds that the Player not only has not established the source of the Prohibited Substances, but he has also not corroborated his claim with any specific,

probative evidence (or indeed, any evidence) that he acted unintentionally. In particular, and irrespective of whether he may or may not be considered to have sufficiently established absence of knowing intention to dope (the first prong of TADP Article 10.2.3, direct intent), he has entirely failed to establish – indeed, has essentially conceded – absence of recklessness with respect to the ADRVs with which he is charged (the second prong of TADP Article 10.2.3, indirect intent).

55. The Player recognised in his Submissions (and confirmed during the hearing) that he was careless and lacked vigilance. He admitted that he never looked at the WADA Prohibited List or Googled the ingredients of the substances that he was taking. He never consulted with a medical practitioner before taking them, as indicated on the label and as instructed during the specific training that the former ITF executive, who testified as a character witness at the hearing, indicated were held at the Kazakhstan Tennis Federation's junior academies, in order to educate young athletes.

56. The Player also stated that he *“was unable to test the original packaging [allegedly] containing the Prohibited Substances), as [he] carelessly discarded it after finishing the container”*.

57. On the basis of this consolidated, but highly fact-specific, jurisprudence, the Tribunal concludes that the Player has not, on the balance of probabilities, rebutted the presumption of intentionality with the specific, concrete, objective, and persuasive evidence required by the jurisprudence.

58. In *WADA v. Swimming Australia, Sport Integrity Australia & Shayna Jack* (CAS 2020/A/7579) and *Sport Integrity Australia v. Shayna Jack & Swimming Australia* (CAS 2021/A/7580), the panel affirmed a decision recognising a successful rebuttal of intention for the purposes of TADP Article 10.2 and imposing a sanction of two (2) years Ineligibility as a result. *Jack* involved a pharmacologically irrelevant dose of the steroid in question, a substance in respect of which the specifics of the excretion meant that direct intention could be excluded and that was irrelevant for the discipline, in a situation in which the athlete was found to be extremely credible.

59. The evidence in the present case is far less compelling than in *Jack*; the expert testimony (consisting, as mentioned, solely of Professor Naud), the testimony of Mr Miley, and the

testimony of the Player himself all point in the same direction. For completeness, the Tribunal notes that it found the Player generally credible in his testimony at the hearing; nonetheless, this credibility does not approach the level of thoroughly corroborated, extreme credibility that infuses the decision in *Jack*, nor does it have any particular bearing on the determination under the second prong of TADP Article 10.2.3.

60. Finally, in *UK Anti-Doping Limited v Khan* (SR/238/2022), the panel determined that the boxer had satisfied his burden of rebutting the presumption of intentionality in a “*rare case in which the Athlete was fortunate to have been required to take a doping test 7 days before the fight providing a clear marker that any subsequent sample could only have been ingested 7 days or less before the bout, thus excluding any possible argument that the residual sample could have been derived from the ingestion of a pharmacologically effective dose administered before 12 February 2022.*”

61. The present dispute is not such a “*rare case*” with such a recent prior negative test result sufficient, in light of the relevant excretion period, to exclude a doping scenario. Hence the *Khan* case is of no assistance to the Player either.

62. In summary, the scientific and factual evidence present in this case is not sufficient to consider that the presumption of intentionality has been rebutted in the absence of proof of source. Accordingly, the Tribunal finds that, based on the text of the TADP and the jurisprudence summarised above, on the balance of probabilities, the Player has failed to rebut the presumption of intentionality, and has indeed acknowledged a lack of proper diligence.

63. The period of Ineligibility imposed shall therefore be four (4) years.

64. In so finding, and for completeness, the Tribunal does not (and needs not) conclude that intentional doping has occurred. Instead, (i) on application of the strict set of rules, which the Tribunal must apply, including the presumptions contained in such rules (ii) on the basis of a challenging burden of proof that is not easily overcome, and (iii) in the light of the clear language of the TADP and the body of jurisprudence which the Tribunal must take into account, the Tribunal finds only that the Player has failed to rebut the presumption of intentionality, in particular with respect to the second prong of the definition of the term contained in TADP Article 10.2.3, on the balance of probabilities.

G. CONCLUSION

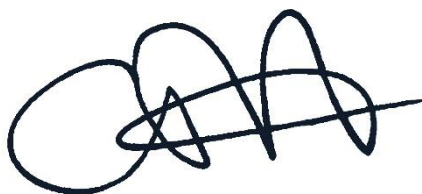
65. For the reasons set out above, the Tribunal finds that:

- a. Mr Aitkulov has committed ADRVs under TADP Articles 2.1 and 2.2 in that a metabolite of Ligandrol and of Methylhexanamine were present in his urine Sample collected In-Competition on 10 January 2024;
- b. Mr Aitkulov has not met his burden to demonstrate that his ADR for Ligandrol was not intentional within the meaning of TADP Article 10.2.3 and therefore a period of Ineligibility of four (4) years is imposed, starting on the date hereof and with credit for the Provisional Suspension in effect from 23 March 2024, and thus expiring at midnight on 22 March 2028.
- c. Mr Aitkulov's results obtained at the Event (namely, the World Tennis Tour M15 tournament held in Doha, Qatar, between 8 and 14 January 2024) are Disqualified (with all resulting Consequences, including forfeiture of any/all medals, titles, ranking points and Prize Money), pursuant to TADP Articles 9.1 and 10.1, and his results from subsequent events are Disqualified, pursuant to TADP Article 10.10.
- d. The Independent Tribunal makes no order for costs, so under TADP Article 8.5.4, the Parties will each bear their own costs.
- e. All further requests of prayers for relief are dismissed.

H. RIGHT OF APPEAL

66. In accordance with Article 13.8 of the TADP, the Parties may appeal this decision by submitting an appeal with the Court of Arbitration for Sport (**CAS**), located at Palais de Beaulieu, Av. des Bergières 10, CH-1004 Lausanne, Switzerland (procedures@tas-cas.org).

67. TADP Article 13.8.1.1 sets the deadline for the Player to file an appeal to the CAS, which is 21 days from the date of receipt of this decision.



Mr Clifford J. Hendel
(Chair)

On behalf of the Independent Tribunal
11 August 2025
London, UK

1 Paternoster Lane, St Paul's London EC4M 7BQ resolve@sportresolutions.com 020 7036 1966

Company no: 03351039 Limited by guarantee in England and Wales
Sport Resolutions is the trading name of Sports Dispute Resolution Panel Limited

www.sportresolutions.com



ENABLING FAIR PLAY