



1. The applicant (DFSNZ) alleges that in February 2015, Mr Rountree purchased 10 millilitres of Clenbuterol through a website trading under the name “NZ Clenbuterol” and therefore committed violations of the provisions of the Sports Anti-Doping Rules 2015 (SADR 2015).
2. The alleged violations under the conditions of SADR 2015 are:
  - (a) Use or Attempted Use by an Athlete of the Prohibited Substance – Rule 2.2 SADR 2015.
  - (b) Possession of a Prohibited Substance – Rule 2.6 of SADR 2015.
3. Mr Rountree is to the best of the Committee’s knowledge currently residing in Australia. A hearing to determine the applications was scheduled for a telephone hearing on 21 February 2019. Mr Rountree has not engaged at all in this application and did not attend the hearing. The Committee has determined that it is satisfied that Mr Rountree had knowledge of the application, knew of the hearing date and had been given adequate notice of it and, consistent with his earlier behaviour, did not intend to attend the hearing. In the circumstances, the Committee proceeded in Mr Rountree’s absence.
4. The facts upon which the Committee is comfortably satisfied that Mr Rountree was aware of the application and the hearing are:
  - (a) The initial letter from DFSNZ to Mr Rountree was sent on 22 August 2018 to the email address which Mr Rountree used to purchase the Clenbuterol. It was also the email address provided by Mr Rountree to NZ Rugby Union when he registered at the relevant time.
  - (b) DFSNZ verified through the “Request Delivery Receipt” function on the email software that the letter and email of 22 August 2018 was received by that email address on 23 August 2018.
  - (c) DFSNZ then was able to confirm that Mr Rountree had left New Zealand for Australia in March 2017 and does not appear to have returned.
  - (d) DFSNZ obtained from the Australian Sports Anti-Doping Authority (ASADA) an address for Mr Rountree in Victoria.

- (e) The notice of intention was sent by courier through DHL to the Victorian address in October 2018. It was delivered to that address on 3 October 2018 and signed for by a person who has been identified as Mr Rountree's father.
  - (f) The application and associated witness statements were served at that address on Mr Rountree's father by ASADA staff on 31 October 2018.
  - (g) After delivery of the application an ASADA employee phoned Mr Rountree's father and details of that discussion are referred to in the next paragraph.
  - (h) Mr Tapper of DFSNZ phoned Mr Rountree's father on 13 November 2018 and the father confirmed his son was aware of the notice of intention but he refused to provide Mr Tapper with Mr Rountree's phone number and said he did not know Mr Rountree's email address. He did confirm that any mail sent to his house would be picked up by Mr Rountree.
  - (i) The Registrar of this Committee spoke to Mr Rountree's father on 21 February 2019 before the hearing. The father said that his son did not think there was any point in attending the hearing. The Registrar confirmed that any time there had been a development in the application including the receipt of memoranda from DFSNZ, he had texted Mr Rountree's father and sent email copies. Details of the hearing were couriered to the father's address in advance of the hearing.
5. In November 2018, the ASADA employee reported to DFSNZ comments made by Mr Rountree's father when the documents were served on him. The father confirmed that his son had received some notification from DFSNZ about the issues some months ago but believed it was a waste of time and resources for DFSNZ to continue the application as Mr Rountree was no longer playing rugby or any sport. Mr Rountree's father gave permission to ASADA to provide his mobile telephone number to DFSNZ if they wanted to contact him. It was this telephone number that the Registrar of the Committee has used to provide information to Mr Rountree's father. In the conversation, the father mentioned that his son had admitted that he purchased "something" online 3 years ago but it was only once.

6. Under Rule 14.1.1 SADR 2015, the notice relating to the allegations is to “be given by sending the notice to the physical address, mailing address or email address provided by that Athlete” and such notice is deemed to have been received on the expiry of 3 working days after the date of dispatch. It was in this case adequate service.

### **Factual Findings**

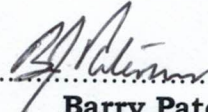
7. The evidence provided by DFSNZ satisfies the Committee to its comfortable satisfaction that Mr Rountree purchased from NZ Clenbuterol the 10 millilitres of Clenbuterol and made a payment of \$30 into the NZ Clenbuterol account on 11 February 2015. The Clenbuterol was delivered to a North Harbour address on 13 February 2015.
8. There is no evidence of actual use but DFSNZ submits that this Committee can draw inferences from the facts. The Committee is entitled to draw inferences under the provisions of Rule 3.2.5 SADR 2015 which states the Committee “may drawn inference adverse to the Athlete ... who is asserted to have committed the anti-doping rule Violation based on the Athlete’s refusal, after requests made in a reasonable manner in advance of the hearing, to appear at the hearing”. The facts upon which an inference can be drawn in this case are the purchase of the Clenbuterol, the delivery of it to Mr Rountree, and his refusal to engage in these proceedings. The Committee is therefore comfortably satisfied that Mr Rountree committed both the violations alleged.
9. A further piece of evidence which is hearsay and which it is not necessary to rely upon is the statement from Mr Rountree’s father that Mr Rountree purchased something online 3 years ago.

### **Sanction**

10. The sanction provided by SADR 2015 for the two violations is a Period of Ineligibility of 4 years. This period applies whether it be one violation or two.
11. This Period of Ineligibility can be backdated under the provisions of Rule 10.11.1 SADR 2015 if there is a delay not attributable to the athlete. DFSNZ acknowledges that in accordance with several previous decisions of this Committee, Mr Rountree is entitled to have the Period of Ineligibility backdated by six months under this provision.

12. The sanction imposed on Mr Rountree is a Period of Ineligibility of 4 years commencing on 21 August 2018 (which allows for the backdating of six months).
13. During the Period of Ineligibility, Mr Rountree is prohibited from participating in any capacity in a *Competition* or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any *Signatory* or *Signatory's* member organisation, or other member organisation of a *Signatory's* member organisation, or in *Competition* authorised or organised by any professional league or any *International* or *National-level Event Organisation* or any elite or national-level sporting activity funded by a governmental agency.
14. Under the provisions of Rule 5.2.3 of the New Zealand Rugby Union Anti-Doping Regulations (26 July 2012), Mr Rountree is entitled to have the finding and/or sanction referred to a Post-Hearing Review Body.

Dated 25 February 2019

  
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**Barry Paterson QC**  
**Chairman, Judicial Committee**