

**IN THE MATTER OF DISCIPLINARY PROCEEDINGS BROUGHT BY THE INTERNATIONAL TENNIS  
FEDERATION UNDER THE 2015 TENNIS ANTI-DOPING PROGRAMME AGAINST DIMITAR KUTROVSKY**

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**CONSENT ORDER**

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With the consent of the parties, the Chairman of the Independent Tribunal convened to hear and determine this matter issues the following Order:

1. On 28 September 2015, while competing at the Tiburon Challenger event held in Tiburon, California (the **Event**), the respondent in these proceedings, Mr Dimitar Kutrovsky, a Bulgarian tennis player bound by the 2015 Tennis Anti-Doping Programme (the **TADP**), provided a urine sample for drug testing pursuant to the TADP. The WADA-accredited laboratory in Montreal analysed that sample (reference number 3072275) and found D-methamphetamine and its metabolite.
2. D-methamphetamine is a non-specified substance prohibited in-competition under category S6.a of the 2015 Prohibited List (stimulants). Mr Kutrovsky did not have a TUE permitting use of that substance. Therefore, the International Tennis Federation (**ITF**) sent a formal notice of charge to Mr Kutrovsky on 4 November 2015, asserting that the presence of D-methamphetamine in his sample constitutes an anti-doping rule violation under TADP Article 2.1, and giving him notice that a mandatory provisional suspension would come into effect, in accordance with TADP Article 8.3.1(a), on 14 November 2015.
3. Mr Kutrovsky admitted that the presence of D-methamphetamine in the sample collected from him at the Event constitutes an anti-doping rule violation under TADP Article 2.1. This is his second anti-doping rule violation, because in 2012 he tested positive for methylhexaneamine (MHA) at the SAF Open tournament held in San José, California, for which he received a 15-month period of ineligibility.
4. Following investigations into the source of his positive test, Mr Kutrovsky explained that he smoked fruit-flavoured tobacco (shisha) through water pipes at two bars in Sofia, Bulgaria on the evening of 20 September 2015 and early morning of 21 September 2015, which he believes was contaminated with D-methamphetamine. He provided factual and scientific evidence in support of the claim.
5. Based on the foregoing, these proceedings are concluded on the following basis:
  - 5.1 Mr Kutrovsky has committed an anti-doping rule violation under TADP Article 2.1 as a result of D-methamphetamine and its metabolite being present in the urine sample collected from him on 28 September 2015.
  - 5.2 Mr Kutrovsky's violation was not 'intentional' within the meaning of TADP Article 10.2.3.
  - 5.3 Mr Kutrovsky bears No Significant Fault or Negligence for his violation pursuant to TADP Article 10.5.2. Had this been Mr Kutrovsky's first anti-doping rule violation, he would have been entitled to the maximum reduction of sanction under TADP Article 10.5.2, and so would have been subject to a one-year period of ineligibility.

- 5.4 As this is Mr Kutrovsky's second offence, pursuant to TADP Article 10.7.1(c), he is subject to a two-year period of ineligibility, i.e., twice the period of ineligibility that would have been applicable had this been his first offence.
- 5.5 In accordance with TADP Article 10.10.3(a), his two-year period of ineligibility will begin to run from 14 November 2015, the date that his provisional suspension was imposed, and will expire at midnight on 13 November 2017.
- 5.6 During his period of ineligibility, Mr Kutrovsky's status is as set out under TADP Article 10.11, i.e., he is not entitled to play, coach or otherwise participate in any capacity in (i) any Covered Event; (ii) any other Event or Competition, or activity (other than authorised anti-doping education or rehabilitation programmes) authorised, organised or sanctioned by the ITF, the ATP, the WTA, any National Association or member of a National Association, or any Signatory, Signatory's member organisation, or club or member organisation of that Signatory's member organisation; (iii) any Event or Competition authorised or organised by any professional league or any international or national-level Event or Competition organisation; or (iv) any elite or national-level sporting activity funded by a governmental agency; nor will he be given accreditation for or otherwise granted access to any Event referred to at points (i) and (ii). Mr Kutrovsky has asked the ITF to confirm, and the ITF is willing to confirm, that it does not consider Mr Kutrovsky working for the National Collegiate Athletic Association (the NCAA) or for any organisation or university connected to or falling under the auspices of the NCAA during his ban to be an infringement of TADP Article 10.11.
- 5.7 The following points and prize money obtained by Mr Kutrovsky at the Event and in subsequent competitions are disqualified pursuant to TADP Articles 9.1 and 10.8:

<b>Tournament</b>	<b>Prize money (\$US)</b>	<b>Points</b>
Tiburon Challenger (28 Sep-4 Oct 2015)	\$1,720	8 (singles)
Sacramento Challenger (5-11 Oct 2015)	\$360	5 (doubles)
Fairfield Challenger (12-18 Oct 2015)	\$0	0
Charlottesville Challenger (2-8 Nov 2015)	\$2,510	29 points (singles)
<b>Total</b>	<b>Singles: \$4,230 Doubles: \$360</b>	<b>Singles: 37 Doubles: 5</b>

- 5.8 There shall be no order as to costs.
6. Mr Kutrovsky has acknowledged and agreed that:
- 6.1 By consenting to this Order, he is waiving his right: (a) to challenge any part of the testing procedure or laboratory analysis in relation to sample number 3072275; and (b) to a hearing before the Independent Tribunal convened in accordance with the TADP to determine whether he committed the anti-doping rule violation charged and/or what consequences should be imposed for such violation.
- 6.2 In accordance with TADP Article 8.8.5, his commission of an anti-doping rule violation and the resulting consequences will be disclosed publicly on the ITF's website.

7. For the avoidance of doubt:
- 7.1 This Order shall be deemed to constitute the final decision of the Independent Tribunal in this matter, within the meaning of TADP Article 8.8.2, for the purposes of the appeal rights set out in TADP Article 12.2.1.
- 7.2 Each of the ITF and Mr Kutrovsky waives its/his right to appeal against or otherwise challenge this Order (both as to the finding that Mr Kutrovsky has committed an anti-doping rule violation and as to the imposition of the consequences set out above), whether pursuant to TADP Article 12.2.1 or otherwise, subject to paragraph 8 below.
- 7.3 However, each of the ITF and Mr Kutrovsky expressly acknowledges and agrees that:
- 7.3.1 each of WADA and the Republic of Bulgaria Anti-Doping Centre retains a right of appeal against this Order, in accordance with TADP Article 12.2.1; and
- 7.3.2 the Court of Arbitration for Sport in Lausanne, Switzerland, has jurisdiction to hear and determine any such appeal, in accordance with the procedure set out in TADP Article 12.6.
8. Should either of WADA and the Republic of Bulgaria Anti-Doping Centre appeal this Order to the Court of Arbitration for Sport, Mr Kutrovsky shall be entitled to exercise his right of cross-appeal in accordance with TADP Article 12.6.3.

London, 1 October 2017

A handwritten signature in black ink, appearing to read "Charles Flint", with a long horizontal line extending to the right from the end of the signature.

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Charles Flint QC  
Chairman of the Independent Tribunal