

**New Era Alternative Dispute Resolution  
Arbitration Tribunal**

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In the Matter of the Arbitration between

UNITED STATES ANTI-DOPING AGENCY,

Claimant

and

KAMRYN LUTE,

Respondent

NE ADR Case Number 24062102

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**FINAL AWARD OF ARBITRATOR**

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This arbitration is being conducted pursuant to the Procedures for the Arbitration of Olympic & Paralympic Sport Doping Disputes (effective as revised January 1, 2023) (“**Arbitration Procedures**”) as contained in the Protocol for Olympic and Paralympic Movement Testing (effective as revised January 1, 2023) (the “**USADA Protocol**”), and pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 USC 22501, *et seq.* (the “**Act**”). This arbitration is being administered by New Era Alternative Dispute Resolution (“**NE ADR**”). An evidentiary hearing was held via video conference on August 13, 2024, before the duly appointed arbitrator Gary L. Johansen.

I, THE UNDERSIGNED ARBITRATOR, having been designated, and having been duly sworn, and having duly heard and considered the allegations, arguments, submissions, proofs, and evidence submitted by the Parties do hereby FIND and AWARD as follows:

**I. THE PARTIES**

1. United States Anti-Doping Agency (“**USADA**” or “**Claimant**”) is the independent anti-doping organization, as recognized by the United States Congress, for all Olympic, Paralympic, Pan American, and Parapan American sport in the United States with headquarters in Colorado Springs, Colorado. USADA is authorized to execute a comprehensive national anti-doping program encompassing testing, results management,

education, and research, while also developing programs, policies, and procedures in each of those areas.

2. Kamryn Lute (“**Lute**” or “**Respondent**”) is a nineteen-year-old short track speedskating athlete who resides in South Jordan, Utah. In addition to national events, Respondent has competed in the 2023 and 2022 Junior World Championships and the 2021 World Championships. Respondent was an alternate to TEAM USA for the 2022 Beijing Olympic Winter Games. Respondent has been a member of the U.S. Short Track National Team from 2022 through 2024.
3. USADA was represented in this proceeding by Jeff T. Cook, Esq., USADA General Counsel, Spencer Crowell, Esq., USADA Olympic & Paralympic Counsel, and Muriel Ossip, USADA Legal Assistant.
4. Respondent was represented in this proceeding by Howard Jacobs, Esq. and Leah M. Bernhard, Esq. of the Law Offices of Howard L. Jacobs.
5. USADA and Respondent shall be referred to collectively as the "Parties" and individually as a "Party."

## II. ISSUE

6. Respondent admits that she used the supplement HG Healthgevity, which contained the banned substances BPC-157 and dehydroepiandrosterone (“**DHEA**”) and that by such use she violated Article 2.2 (use/attempted use) of the International Skating Union (“**ISU**”) Anti-Doping Rules and Article 2.2 (use/attempted use) of the World Anti-Doping Code (the “**WAD Code**”).<sup>1 2</sup>
7. The sole issue in this matter, therefore, is what period of ineligibility and what other consequences result from Respondent’s anti-doping rule violation.

## III. JURISDICTION

8. This matter is properly before NE ADR and this Arbitrator.
9. Respondent is an elite-level athlete, competing internationally under the authority of the ISU and competing in the U.S. as a member of US Speedskating (“**USS**”).

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<sup>1</sup> Since the relevant Articles of the WAD Code and of the ISU Anti-Doping Rules are essentially the same, only the WAD Code will be referenced in this Award. The Parties in their briefs and submissions referred to the WAD Code.

<sup>2</sup> Further reference to Article in this Award refers to Articles of the WAD Code.

10. Sections 4, 5 and 6 of the USADA Protocol, based on the WAD Code and the rules of sports organizations, including the International Olympic Committee (“**IOC**”) and United States Olympic & Paralympic Committee (“**USOPC**”), set forth rules that subject athletes, athlete support personnel and other persons to the USADA Protocol. A number of the criteria set out in Section 4 of the USADA Protocol apply to Respondent.
11. Accordingly, USADA’s Protocol governs all proceedings involving Respondent’s alleged anti-doping rule violation.
12. Further, this arbitration was conducted by concurrence of the Parties. USADA by letter dated June 5, 2024, sent Respondent a charging letter regarding her possible anti-doping rule violation and further advised Respondent that if she chose “to contest the sanction proposed by USADA,” she has “the “right to request a hearing .... before an independent arbitrator.” Respondent responded via email on June 14, 2024, stating that she “contests the sanction sought by USADA, and requests a hearing in this matter under the USADA Protocol.” USADA then initiated this proceeding by notifying NE ADR by letter of June 21, 2024, of Respondent’s request to arbitrate.<sup>3</sup>
13. The USADA Protocol, at Section 17 provides, in pertinent part, that “all hearings will take place in the United States before the independent arbitral body using the Arbitration Procedures.” NE ADR has been designated as the independent arbitral body to hear anti-doping disputes in the U.S. NE ADR uses the Arbitration Procedures in hearing anti-doping disputes.
14. Also, Neither Party disputed NE ADR’s jurisdiction over this matter or that Respondent is properly subject to this proceeding. Both Parties participated in this proceeding without objection.<sup>4</sup>
15. Additionally, neither Party objected to the Arbitrator designated to hear this matter.

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<sup>3</sup> R-4 of the Arbitration Procedures provides that “Arbitration proceedings shall be initiated by USADA with the Arbitral Body after the Athlete, Athlete Support Person, or other Person requests a hearing in response to being charged with an anti-doping rule violation or other dispute subject to arbitration under the USADA Protocol.”

<sup>4</sup> R-7c of the Arbitration Procedures requires that, “A party must object to the jurisdiction of the arbitrator or to the arbitrability of a claim or counterclaim no later than the filing of the answering statement to the claim or counterclaim that gives rise to the objection.”

#### **IV. USADA’S CHARGE AGAINST RESPONDENT AND DEMAND FOR SANCTION AND CONSEQUENCES**

16. In its charging letter of June 5, 2024, USADA “charges [Respondent] with an [anti-doing rule violation] for the use of BPC-157 and DHEA pursuant to Article 2.2 of the ISU Anti-Doping Rules and Article 2.2 of the [WAD] Code.”
17. Further, as set out in its June 5, 2024, charging letter USADA seeks the following sanction and consequences:
  - A two-year period of ineligibility as described in the ISU Anti-Doping Rules and Article 10.2 of the [WAD] Code, beginning on April 10, 2024, the date [Respondent] received notice of [her] Provisional Suspension;
  - Disqualification of any competitive results obtained on and subsequent to May 7, 2023, the date [Respondent] first declared the Use of HG Healthevity BPC+PEA 500, including forfeiture of any medals, points and prizes consistent with the ISU Anti-Doping Rules;
  - A two-year prohibition, beginning on April 10, 2024, the date [Respondent] received notice of [her] Provisional Suspension, against participation in any capacity in a competition or activity authorized or organized by any Code Signatory, Code Signatory’s member organization, or a club or other member organization of a Code Signatory’s member organization, or in competitions authorized or organized by any professional league or any international- or national-level event organization (e.g., the National Collegiate Athletic Association (“NCAA”)) or any elite or national-level sport activity funded by a governmental agency during [Respondent’s] ineligibility, as described in the ISU Anti-Doping Rules and Article 10.14.1 of the [WAD] Code; and
  - All other sanctions and/or consequences which may be required by the Applicable Rules, including but not limited to, any fines, costs, return of prize money or other financial consequences.

#### **V. PROCEDURAL HISTORY**

18. This proceeding was initiated on June 21, 2024, pursuant to USADA’s letter notifying NE ADR of Respondent’s request for a hearing.
19. On July 1, 2024, NE ADR informed the Arbitrator that he had been assigned to hear this matter.

20. On July 11, 2024, the Arbitrator held a preliminary hearing with the Parties as provided for in the Arbitration Procedures.<sup>5</sup> The Arbitrator issued Preliminary Hearing and Scheduling Order Number 1, on July 11, 2024, which, among other things, set dates for the submission of pre-hearing briefs, exhibits and designation of potential witnesses, and set the hearing date for August 13, 2024. At the request of the Parties, if a Reasoned Award could not be issued by August 20, 2024, the Arbitrator would issue an Operative Award by August 20, 2024, with a Reasoned Award to follow.
21. Prior to commencement of the hearing the Parties submitted pre-hearing briefs, offered exhibits, and listed potential witnesses as provided for in Preliminary Hearing and Scheduling Order Number 1.
22. On August 13, 2024, the Arbitrator held a full evidentiary hearing by video conference, lasting approximately nine hours, in which both USADA and Respondent participated.<sup>6</sup> At the Arbitrator's request, the Parties submitted additional materials on August 14, 2024.
23. During the hearing, the Parties called witnesses to testify.
24. The Arbitrator heard from the following witnesses, all of whom were sworn:

For Respondent:

- Kamryn Lute, Respondent.
- Jane Lute, Mother of Respondent.
- Doug Lute, Father of Respondent.
- Ruth C. Johnson, MD, Genesis Health (Dr. Johnson also submitted a letter dated March 12, 2024, providing justification for Respondent's treatment).

For USADA:

- Tammy Hanson, USADA Elite Education Director.
- Matthew Fedoruk, Ph.D. (Pathology and Laboratory Medicine), USADA Chief Science Officer (Dr. Fedoruk also submitted a Scientific Expert Opinion Report dated August 8, 2024).
- Amy Eichner, Ph.D. (Medical Sciences – Neuroscience), USADA Special Advisor on Drugs and Supplements.

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<sup>5</sup> R-15 of the Arbitration Procedures provides that, "At the request of any party or at the discretion of the arbitrator or the Arbitral Body, the arbitrator may schedule as soon as practicable a preliminary hearing," which "should be conducted by telephone at the arbitrator's discretion."

<sup>6</sup> R-8a of the Arbitration Procedures provides that, "All hearings shall take place by telephone or video conference unless the parties and the arbitrator agree to an in-person hearing."

25. Each Party was afforded the opportunity to ask questions of the witnesses and examine them on their statements and did so as each Party considered necessary. The Arbitrator also asked questions of the witnesses as he determined appropriate.
26. The Parties submitted numerous exhibits, which were admitted into evidence at the start of the hearing without objection.
27. The Parties also provided opening and closing statements and gave arguments and presented their positions on various issues that arose during the hearing.
28. The rules of evidence were not strictly enforced, and rules of evidence generally accepted in administrative proceedings were applied.<sup>7</sup>
29. The Parties declined to submit post-hearing briefs.
30. At the conclusion of the hearing the Arbitrator inquired of the Parties whether they had “further proofs to offer or witnesses to be heard.”<sup>8</sup> The Parties indicated that they did not.
31. The Arbitrator declared the hearing closed as of August 14, 2024.<sup>9</sup>

## VI. APPLICABLE LAW

32. In their submissions, the Parties rely on the provisions of the WAD Code, ISU Anti-Doping Rules, USADA Protocol, the USOPC National Anti-Doping Policy, Arbitration Procedures, and on CAS and AAA jurisprudence. No law was cited by the Parties and no argument was made by the Parties that required the Arbitrator to deviate from the directives of the above listed rules, regulations, guidelines and jurisprudence, or to deviate from documents that were referred to or referenced in the above listed rules, regulations, guidelines or jurisprudence.
33. Although not every rule, regulation or guideline submitted by the Parties is listed below, the Arbitrator sets forth the primary rules, regulations, and guidelines considered applicable to this proceeding.

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<sup>7</sup> R-26a of the Arbitration Procedures provides that, “Conformity to legal rules of evidence shall not be necessary.”

<sup>8</sup> R-30 of the Arbitration Procedures provides that, “The arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard.”

<sup>9</sup> R-30 of the Arbitration Procedures provides that, “The arbitrator shall declare the hearing closed at the conclusion of closing arguments unless a party demonstrates that the record is incomplete and that such additional proof or witness(es) are pertinent and material to the controversy.”

34. The relevant WAD Code provisions applicable to this proceeding<sup>10</sup> are as follows:

**ARTICLE 2 ANTI-DOPING RULE VIOLATIONS**

*The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules have been violated.*

*Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the Prohibited List.*

*The following constitute anti-doping rule violations:*

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*2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method<sup>9</sup>*

*<sup>9</sup>[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 Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, including data collected as part of the Athlete Biological Passport, or other analytical information 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.]*

*2.2.1 It is the Athletes' personal duty to ensure that no Prohibited Substance enters their bodies and that no Prohibited Method is Used. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete's part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.*

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<sup>10</sup> WAD Code effective January 1, 2021.

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.*<sup>10</sup>

<sup>10</sup> [Comment to Article 2.2.2: Demonstrating the “Attempted Use” of a Prohibited Substance or a Prohibited Method requires proof of intent on the Athlete’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. An Athlete’s Use of a Prohibited Substance constitutes an anti-doping rule violation unless such Substance is not prohibited Out-of-Competition and the Athlete’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.)]

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### **3. PROOF OF DOPING**

#### *3.1 Burdens and Standards of Proof*

*The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the Anti-Doping Organization 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.*<sup>18</sup> *Where the Code places the burden of proof upon the Athlete 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 3.22 and 3.23, the standard of proof shall be by a balance of probability.*

<sup>18</sup> [Comment to Article 3.1: This standard of proof required to be met by the Anti-Doping Organization is comparable to the standard which is applied in most countries to cases involving professional misconduct.]

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### **ARTICLE 10 SANCTIONS ON INDIVIDUALS**<sup>56</sup>

<sup>56</sup> [Comment to Article 10: Harmonization of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonization means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonization of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are



*professionals making a sizable income from the sport and in others the Athletes are true amateurs; in those sports where an Athlete's career is short, a standard period of Ineligibility has a much more significant effect on the Athlete than in sports where careers are traditionally much longer. A primary argument in favor of harmonization is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, too much flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organizations to be more lenient with dopers. The lack of harmonization of sanctions has also frequently been the source of conflicts between International Federations and National Anti-Doping Organizations.]*

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*10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method*

*The period of Ineligibility imposed for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Articles 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 Athlete or other Person can establish that the anti-doping rule violation was not intentional.<sup>58</sup>*

*<sup>58</sup> [Comment to Article 10.2.1.1: 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.]*

*10.2.1.2 The anti-doping rule violation involves a Specified Substance or a Specified Method and the Anti-Doping Organization can establish that the anti-doping rule violation was intentional.*

*10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two (2) years.*

*10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes 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.<sup>59</sup> An antidoping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not “intentional” if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In Competition shall not be considered “intentional” if the substance is not a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.*

*<sup>59</sup> [Comment to Article 10.2.3: Article 10.2.3 provides a special definition of “intentional” which is to be applied solely for purposes of Article 10.2.]*

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## *10.6 Reduction of the Period of Ineligibility based on No Significant Fault of 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 Athlete 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 Athlete’s or other Person’s degree of Fault.*

#### *10.6.1.2 Contaminated Products*

*In cases where the Athlete 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 Athlete or other Person’s degree of Fault.<sup>66</sup>*

<sup>66</sup> [Comment to Article 10.6.1.2: In order to receive the benefit of this Article, the Athlete 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 Athletes 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 Athlete has exercised a high level of caution before taking the Contaminated Product. In assessing whether the Athlete can establish the source of the Prohibited Substance, it would, for example, be significant for purposes of establishing whether the Athlete actually Used the Contaminated Product, whether the Athlete 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 “non-product” 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.]

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#### *10.7 Elimination, Reduction, or Suspension of Period of Ineligibility or Other Consequences for Reasons Other than Fault*

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##### *10.7.2 Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence*

*Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one-half of the period of Ineligibility otherwise applicable.*<sup>69</sup>

<sup>69</sup> [Comment to Article 10.7.2: This Article is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organization is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught. The amount by which Ineligibility is reduced should be based on the likelihood that the Athlete or other Person would have been caught had he or she not come forward voluntarily.]

*10.7.3 Application of Multiple Grounds for Reduction of a Sanction*

*Where an Athlete or other Person establishes entitlement to reduction in sanction under more than one provision of Article 10.5, 10.6 or 10.7, before applying any reduction or suspension under Article 10.7, the otherwise applicable period of Ineligibility shall be determined in accordance with Articles 10.2, 10.3, 10.5, and 10.6. If the Athlete or other Person establishes entitlement to a reduction or suspension of the period of Ineligibility under Article 10.7, then the period of Ineligibility may be reduced or suspended, but not below one-fourth of the otherwise applicable period of Ineligibility.*

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*10.10 Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation*

*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 Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping 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.<sup>73</sup>*

<sup>73</sup> *[Comment to Article 10.10: Nothing in the Code precludes clean Athletes or other Persons who have been damaged by the actions of a Person who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such Person.]*

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*10.13 Commencement of Ineligibility Period*

*Where an Athlete is already serving a period of Ineligibility for an anti-doping rule violation, any new period of Ineligibility shall commence on the first day after the current period of Ineligibility has been served. Otherwise, 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.*

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*10.13.2 Credit for Provisional Suspension or Period of Ineligibility Served*

*10.13.2.1 If a Provisional Suspension is respected by the Athlete or other Person, then the Athlete 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 Athlete or other Person does not respect a Provisional Suspension, then the Athlete 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 Athlete 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.*

*10.13.2.2 If an Athlete or other Person voluntarily accepts a Provisional Suspension in writing from an Anti-Doping Organization with Results Management authority and thereafter respects the Provisional Suspension, the Athlete or other Person shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility which may ultimately be imposed. A copy of the Athlete or other Person's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under Article 14.1.<sup>76</sup>*

<sup>76</sup> [Comment to Article 10.13.2.2: An Athlete's voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way to draw an adverse inference against the Athlete.]

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*ARTICLE 26 INTERPRETATION OF THE CODE*

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*26.2 The comments annotating various provisions of the Code shall be used to interpret the Code.*

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*Appendix I Definitions*

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*No Significant Fault or Negligence: The Athlete or other Person's establishing that any 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 Athlete must also establish how the Prohibited Substance entered the Athlete's system.*

## VII. FACTUAL SUMMARY

### A. Introduction

35. Below is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings and evidence adduced during the pendency of this arbitration proceeding. Additional facts and allegations found in the Parties' submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceeding, this Award only refers to the submissions, pleadings, and evidence necessary to explain the Arbitrator's reasoning. The facts presented or relied upon by the Arbitrator may differ from one side or the other's presented version. That is the result of the Arbitrator necessarily having to weigh the presented evidence in providing the basis for and in coming to a decision as to the Award.

### B. Background/Uncontested Facts

36. Respondent is a 19-year-old short track speedskating athlete who resides in South Jordan, Utah. In addition to national events, Respondent has competed in the 2023 and 2022 Junior World Championships and the 2021 World Championships. Respondent was an alternate to TEAM USA for the 2022 Beijing Olympic Winter Games. Respondent has been a member of the U.S. Short Track National Team from 2022 through 2024.
37. Respondent has an active US Speedskating membership and has consistently been a membership since 2019.
38. In 2021 at age seventeen Respondent began experiencing a variety of health issues. From 2021 through 2024 Respondent saw several physicians, including a number of medical specialists, and underwent a variety of medical diagnostic tests to determine the cause of her symptoms.<sup>11</sup> Respondent was prescribed a variety of medications to treat her health issues.
39. On April 6, 2023, Respondent met with Dr. Ruth C. Johnson of Genesis Medical Diagnostics, located in New York City. During her visit she provided a blood sample, which was analyzed by ACCU Medical Reference Lab of Linden, New Jersey. Dr. Johnson offers a personalized approach to wellness through functional medicine.

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<sup>11</sup> Respondent is quite forthcoming in her submissions and testimony regarding her medical diagnosis. However, for reasons of privacy and because Respondent's specific diagnosis has no bearing on Respondent's anti-doping rule violation or the sanction to be applied, the Arbitrator sees no need to disclose it in this Award.

40. On April 11, 2023, Respondent had a second consultation with Dr. Johnson. During that consultation Dr. Johnson went over the results of Respondent's blood tests and recommended a treatment program. One of the supplements that Dr. Johnson recommended Respondent take was HG Healthgevity. At the conclusion of Respondent's appointment with Dr. Johnson, Dr. Johnson's assistant gave Respondent a bag of supplements, which included HG Healthgevity. Dr. Johnson also recommended that Respondent pursue IV vitamin therapy and IV ozone therapy. Although Respondent took the HG Healthgevity supplement, she did not undergo the IV vitamin therapy or the IV ozone therapy because she was concerned with the risks associated with such procedures given USADA's guidelines. Refills of the HG Healthgevity supplement were obtained by contacting Dr. Johnson's office and going on-line directly to the manufacturer or using a prescription service.
41. Respondent was first added to USADA's Registered Testing Pool ("**RTP**") in October 2021, which required her to file her whereabouts with USADA to facilitate out-of-competition testing. She remains in the RTP to this day.
42. USADA provided Respondent anti-doping education tutorials each year Respondent was in the RTP. Through these tutorials USADA informed Respondent that she was responsible for everything that went into her body. USADA emphasized the risks posed by supplements and instructed Respondent to carefully review each product before use. Each tutorial includes an online assessment that all athletes are required to complete with 100% accuracy. Each year, Respondent correctly identified strict liability as the concept that athletes are responsible for everything that goes into their bodies.
43. In addition to the yearly tutorials, USADA also provided Respondent with further education in the form of emailed newsletters and athlete advisories that explicitly referenced BPC-157. On October 15, 2021, USADA emailed Respondent an athlete advisory explaining the upcoming changes to the 2022 World Anti-Doping Agency ("**WADA**") Prohibited List which included the addition of BPC-157. USADA sent monthly newsletters to Respondent on October 29, 2021, and December 17, 2021, which repeated that advisory. On April 22, 2022, USADA emailed Respondent another athlete newsletter with a headline in bold font that read: "BPC-157: Experimental Peptide Prohibited Under 2022 Rules."
44. Respondent received a "Declaration Courtesy Letter" via email from USADA on April 18, 2023. This letter notified Respondent that she had declared prednisone on her April 4, 2023, Doping Control Form ("**DCF**"). This letter reminded Respondent that prednisone was prohibited in-competition, and even if used out-of-competition it could remain in an athlete's system for some time and could then cause a positive result for samples taken in-competition.

45. Respondent began taking the HG Healthgevity supplement after her April 11, 2023, consultation with Dr. Johnson. “HG Healthgevity,” “BPC+PEA 500” and “BPC-157 + Palmitoylethanolamide” were printed on the front of the supplement bottle label. Printed on the back of the bottle label were the words “Supplemental Facts” and listed as one of the ingredients was “Body Protective Compound (as BPC-157 Arginate Salt) 500 mcg.”
46. USADA collected samples from Respondent on May 7, 2023, May 26, 2023, November 13, 2023, January 30, 2024, and February 29, 2024. As part of the collection process Respondent filled out a DCF. On each of the DCF’s, in addition to other medications and supplements, respondent listed her use of the following: “HG Healthgevity BPC+PEA 500, 1 Capsule(s), Once daily.”
47. Upon review of Respondent’s February 29, 2024, DCF, USADA determined that “BPC+PEA 500” matched the name of a supplement which listed BPC-157 on the product label. USADA then reviewed Respondent’s previous DCFs and discovered that Respondent had declared the same substance on her DCFs of May 7, 2023, May 26, 2023, November 13, 2023, and January 30, 2024.
48. On March 7, 2024, USADA sent Respondent a letter requesting additional information regarding Respondent’s declared use of “HG Healthgevity BPC+PEA 500” on her February 29, 2024, DCF. USADA indicated that BPC-157 “is a Prohibited Substance in the class of Non-Approved Substances on the [WADA] Prohibited List.” USADA also informed Respondent that “BPC-157 is prohibited at all times.” USADA also indicated that “[u]pon further review of previous sample collections, USADA noticed that [Respondent] also declared “HG Healthgevity BPC+PEA 500” on DCFs during sample collections on May 7, 2023, May 26, 2023, November 13, 2023, January 30, 2024.
49. At USADA’s request, on March 8, 2024, Respondent provided two bottles of the HG Healthgevity supplement, an open container and a sealed container, to the Sports Medicine Research & Testing Laboratory (“SMRTL”), a WADA accredited laboratory, located in South Jordan, Utah, for testing.
50. Respondent provided a written explanation and medical records to USADA on March 20, 2024, which described various health issues and explained that the HG Healthgevity supplement had been recommended to her by Dr. Johnson.
51. On April 2, 2024, SMRTL reported that both the open and sealed containers contained BPC-157, in the concentration of 200 micrograms per capsule in the open container and 290 micrograms per capsule in the sealed container. Also, SMRTL reported that both the open and sealed containers contained DHEA, in the concentration of 8.5 micrograms per capsule in the open container and 0.4 micrograms per capsule in the sealed container. DHEA was not printed on the front of the bottle label or listed as an ingredient on the back of the bottle label.



52. Both BPC-157 and DHEA are prohibited substances as listed on the WADA Prohibited List. BPC-157 is a Specified Substance within the meaning of the WADA Prohibited List and Article 4.2.2 of the WAD Code. DHEA is not a Specified Substance within the meaning of the WADA Prohibited List and Article 4.2.2 of the WAD Code.
53. By letter of April 10, 2024, USADA notified Respondent of her potential anti-doping rule violation for her declared use of the HG Healthgevity supplement, which contained the prohibited substances BPC-157 and DHEA. USADA also imposed a provisional suspension against Respondent. Respondent did not opt out of the provisional suspension.
54. On April 18, 2024, Respondent submitted a supplemental letter through her legal counsel regarding her use of the HG Healthgevity supplement.
55. On May 7, 2024, Respondent participated in a Zoom meeting with USADA investigator John Loney. Respondent answered questions regarding her use of the HG Healthgevity supplement.
56. By letter of June 5, 2024, USADA charged Respondent with an anti-doping rule violation of Article 2.2 (use/attempted use) the ISU Anti-Doping Rules and of Article 2.2 (use/attempted use) of the WAD Code for her use of BPC-157 and DHEA.
57. Respondent responded via email on June 14, 2024, stating that she “contests the sanction sought by USADA, and requests a hearing in this matter under the USADA Protocol.”
58. USADA initiated this proceeding by notifying NE ADR by letter of June 21, 2024, of Respondent’s request to arbitrate.
59. Respondent’s test results on May 7, 2023, May 26, 2023, November 13, 2023, January 30, 2024, and February 19, 2024, were negative for the presence of prohibited substances, including being negative for both BPC-157 and DHEA.
60. USADA notified Respondent of the negative test results in its letters of June 20, 2023, July 14, 2023, December 14, 2023, February 17, 2024, and July 29, 2024, stating in each letter, “We are pleased to inform you that the reported results do not indicate the presence of any Prohibited Substance and/or Method.” USADA also advised Respondent in each of its letters of the following:

You probably already know that the anti-doping rules make the presence of a Prohibited Substance in an athlete’s Sample a doping violation regardless of how the substance got there. So it is imperative for you to check the status of all medications and other substances which you can do through: Global Drug Reference Online at ([www.globaldro.com](http://www.globaldro.com)), USADA Drug Reference Line™ at

(800) 233-0393 or the WADA Prohibited List at  
(<https://www.usada.org/athletes/substances/prohibited-list/>).

61. Respondent does not dispute that she took the HG Healthgevity supplement, which contained both BPC-157 and DHEA. Respondent also admits that by her use of the HG Healthgevity supplement, which contained prohibited substances, she violated Article 2.2 (use/attempted use) of the ISU Anti-Doping Rules and Article 2.2 (use/attempted use) of the WAD Code.
62. Additionally, the Parties agree to a stipulation of uncontested facts, which provides as follows:

The United States Anti-Doping Agency (“USADA”) and Kamryn Lute (“Respondent”), stipulate and agree for purposes of the above proceeding the following:

1. The Respondent has never tested positive for BPC-157 or DHEA;
2. The Respondent declared her use of the “HG Healthgevity BPC+PEA 500” Supplement on every USADA doping control form she completed between May 7, 2023, and February 29, 2024;
3. The “HG Healthgevity BPC+PEA 500” capsules tested by SMRTL were contaminated with DHEA as confirmed by the presence of DHEA in a sealed container of the same product;
4. The Respondent’s use of BPC-157 was not intentional as defined by Article 10.2.3;
5. The Respondent suffered from various health issues as documented in her medical records submitted as Respondent’s Exhibit 1;
6. The time served under the Provisional Suspension will be deducted from any period of Ineligibility that Respondent might receive beginning on April 10, 2024, the date the Provisional Suspension was imposed, assuming she has respected her Provisional Suspension during that time; and
7. The Arbitrator may consider Article 10.7.2 when determining appropriate sanction reductions given the unique circumstances of the Respondent’s case.

Submitted this 9th day of August, 2024.

## VIII. WITNESS TESTIMONY

### A. Introduction

63. Witness testimony and statements were presented by the Parties. Although testimony may appear to be in conflict at times with other testimony and statements or exhibits, the

Arbitrator is not suggesting that he found anything questionable about the demeanor of the witnesses or found that they were untruthful in their testimony. Witnesses testify as to what they remember or believe to be true. Different individuals have different recollection of past events. An analysis of this case does not depend on determining the absolute truth or falsity of any fact presented by a witness. The summary presented below is not a verbatim recitation of a witness's testimony but paraphrases the crux of pertinent testimony presented by the witness.

B. Testimony and Witness Statements

64. Respondent testified as follows:

- Respondent resides in South Jordan, Utah. She is nineteen. Respondent first became involved in speedskating when she was five years old. She has gradually progressed and now is an elite athlete who has been on the National Short Track Team.
- The competitive season for short track begins in the middle of August. The first trials for the world cup team are in September. Short track skaters train from May through March. It is very important to train with others who are competing in short track. Because of the sport and the manner in which it is competed, it is very important to have training partners.
- Respondent was first drug tested in 2021, when she was sixteen. It is an honor to be tested as that means you have reached a high level in the sport. She was added to the RTP in October 2021 and has been in the RTP ever since. Respondent has had anti-doping training.
- Clean sport is very important to Respondent. Integrity is very important to Respondent in every aspect of her life.
- Respondent understands that it is her responsibility not to take anything that is banned. Respondent uses GlobalDRO regularly. Respondent always goes to GlobalDRO to determine if any substance is banned. That is what she has been directed to do. Respondent uses Athlete Express when she goes on GlobalDRO. Respondent learned about GlobalDRO through the anti-doping education she received. A search on GlobalDRO will tell you if there is a match and if the product is prohibited. She doesn't go to Google to research the drug.
- Respondent recounted her health issues and that she had consulted with multiple doctors. Respondent saw Dr. Solomon of NYU Langone Health in March of 2023. Respondent informed Dr. Solomon that she was an elite athlete subject to drug testing. Dr Soloman recommended that Respondent take prednisone. Respondent checked prednisone in Dr. Soloman's office on GlobalDRO and informed Dr Soloman that she couldn't take prednisone while she was competing. Respondent and Dr. Solomon made a treatment plan together, which included discontinuance of taking prednisone during Respondent's competition season.

- Respondent saw Dr. Johnson in April 2023. She had an initial consultation with Dr. Johnson in which she explained her health issues. Respondent told Dr. Johnson that she was an elite athlete. Respondent had blood drawn during this appointment. On Respondent's second visit with Dr. Johnson, Dr. Johnson went over the results of Respondent's blood tests with her. Dr. Johnson recommended certain foods that Respondent should avoid. Respondent does not recall discussing specific supplements with Dr. Johnson. Respondent remembered discussing IV treatments with Dr. Johnson, which Dr. Johnson had recommended. Respondent knew that she wasn't going to pursue IV treatments as they were likely not allowed. The person at the front desk of Dr. Johnson's office handed Respondent a gift bag of supplements to take. There were four or five supplements in the bag. Respondent did not do any check on supplements in Dr. Johnson's office as Respondent wasn't given the supplements until she was leaving. One of the supplements in the bag was HG Healthgevity.
- Respondent is sure she searched for the HG Healthgevity supplement on GlobalDRO. However, she can't recall precisely what searches she made as it was 18 months ago. Respondent would have searched for a variation of the product title or searched the supplement facts on the back of the bottle. She did not search for BPC-157, because if she had, BPC-157 would have come up to be prohibited, and she would not have taken it. Looking at a photo of the bottle the supplement came in, the best inference Respondent can make is that she would have searched "BPC+PEA 500" or "BPC-157 Arginate Salt." Regarding the HG Healthgevity supplement, none of Respondent's searches brought up a prohibited result. Respondent recalls that what did show up was possible related matches. If there was an exact match, Respondent would have clicked on it. Respondent took the HG Healthgevity supplement most days, but there were times when she didn't take it.
- In addition to the HG Healthgevity supplement, Respondent took four or five other supplements recommended by Dr. Johnson. Respondent is sure that she checked all of these supplements on GlobalDRO.
- Respondent did not do any additional searches through Google as athletes are informed to utilize GlobalDRO. Respondent didn't search the Healthgevity company because the supplement was given to Respondent by a doctor.
- Respondent purchased refills for the supplements recommended by Dr. Johnson by contacting her office. Some of the supplements were purchased through Wholescripts. Dr. Johnson also gave Respondent a link to the Healthgevity website. Respondent refilled the HG Healthgevity supplement four times.
- Respondent had a meeting with Dr. Albano, US Speedskating's physician on April 24, 2023. Respondent had her blood drawn. Respondent also filled out a "USS Sports Medicine Comprehensive Review" form, on which

Respondent listed the medicines and supplements she was taking. Respondent had a discussion with Dr. Albano about prednisone. No one flagged the BPC+PEA 500 supplement. Respondent had no reason to believe that what she was taking was not okay.

- Respondent listed all of her medications and supplements on her DCF's with specificity. Respondent understood that there was a risk in taking any supplement. When Respondent got USADA's letters regarding her drug tests indicating that they were negative for prohibited substances, she was assured that the medicines and supplements she was taking were okay.
- It was terrifying when Respondent got USADA's March 7, 2023, letter requesting additional information because of Respondent's use of the HG Healthgevity supplement. Respondent responded to USADA right away. In her response, Respondent stated in her response that she is very careful in checking substances she takes on GlobalDRO and that she recalls searching the supplement name in the database when she first began taking it thinking the branded name would appear, but that she did not distinguish the ingredients. Respondent also included in her response that she had received a Declaration Courtesy Letter from USADA on April 18, 2023, regarding her declaration of prednisone on her DCF, which she filled out in conjunction with her April 4, 2023, doping test. She included this information in her response to USADA as it indicated to her that if she declared something that was prohibited, she would have gotten a similar notice.
- If Respondent were suspended for a year, it would probably end her short track career. If she could start training immediately, she would be able to pursue her goal of making the U.S. Team and competing in the Winter Olympics.
- Respondent has complied with the provisional suspension that she got on April 10, 2024.
- Respondent was added to the RTP in October 2021 and she has been in the RTP to this date. Respondent has received anti-doping education since that time. Respondent took tutorials in 2021, 2022 and 2023. Respondent understands the risks involved in taking supplements. Respondent receives USADA's monthly anti-doping education newsletters and advisories. Respondent assumes that she received USADA's advisory of October 15, 2021, which explained that BPC-157 is being added to the 2022 WADA prohibited list.
- Respondent didn't go over the supplements or their ingredients with Dr. Johnson on April 11, 2023, when she met with Dr. Johnson. Respondent didn't take the supplements out of the bag when she was given them in Dr. Johnson's office. Respondent didn't instruct Dr. Johnson on the WAD Code or prohibited list. As far as Respondent knows, Dr. Johnson doesn't have any anti-doping experience or education.

- Respondent read the labels on the bottle of the HG Healthgevity supplement prior to her taking it. Respondent didn't recognize BPC-157 that was written on the front of the bottle. If Respondent had recognized BPC-157 she would have searched it. Respondent didn't check the prohibited list for BPC-157. BPC-157 didn't strike Respondent as a part of the label that Respondent would typically check. If BPC-157 wasn't on the supplement facts on the back part and it wasn't bolded on the front, as the product name was, then she wouldn't check it. Respondent is sure that she checked the product name and what was on the supplement facts, but not where it says BPC under the product name on the front of the bottle. Respondent is aware that the label on the back of the bottle says BPC-157 Arginate Salt. Respondent didn't check the label against the prohibited list. Respondent has been told to use GlobalDRO. Respondent doesn't recall checking whether HG Healthgevity supplement was third-party tested. Respondent didn't research the manufacturer prior to using HG Healthgevity to make sure the manufacturer didn't sell any prohibited substances. Respondent most likely didn't check the HG Healthgevity supplement on Google, but it was a while ago. Respondent would have searched for the supplement on GlobalDRO after her appointment on April 11, 2023, and before she listed it on her doping control form on May 7, 2023.

65. Jane Lute testified as follows:

- J is Respondent's mother. J Lute reviewed her background. She has served in many high-level positions in the U.S. government. Mrs. Lute is also on the board of U.S. Speedskating as a non-voting board member.
- Respondent has been speedskating since she was five years old and has progressed through the sport to make the National Team.
- Respondent moved to Utah in 2022 in order to further her speedskating career.
- Respondent is primarily responsible for ensuring that she complies with her anti-doping responsibilities. The first time J Lute knew that Respondent was taking the HG Healthgevity supplement was when Respondent was contacted by USADA.
- Respondent is committed to fair play She has what J Lute would call the "justice gene."
- Respondent has health issues that need attention. Respondent has seen many medical doctors regarding her health issues. These health issues are stressful for Respondent. J Lute recommended that Respondent see Dr. Johnson.

66. Douglas Lute testified as follows:

- D Lute is the father of the Respondent. D Lute was a three-star general.

- Respondent is meticulous about things in her life. Respondent took her anti-doping responsibilities very seriously. D Lute doesn't doubt that Respondent looked up her supplements on GlobalDRO. If the results had come back that a supplement was prohibited, D Lute is certain that Respondent would not have taken the supplement.
- Respondent's health issues affected her emotionally.
- A one-year suspension would seriously affect Respondent's ability to make the U.S. Team for the upcoming Winter Olympics.

67. Dr. Ruth C. Johnson testified as follows:

- Dr. Johnson is associated with Genesis Health. Dr. Johnson is an internist, focusing on a functional approach or a biomedical approach to the body. She works on a natural approach rather than a pharmaceutical approach.
- Dr. Johnson's work with athletes has been very limited. She does not specialize in working with athletes. She treated a couple of athletes five years ago. She is aware that there are certain criteria that athletes must meet. She looked at the prohibited list five years ago but has not reviewed information since then.
- Dr. Johnson first met with Respondent on April 6, 2023. It was an in-person meeting. Respondent provided Dr. Johnson with information on her health issues. Respondent indicated that she wasn't feeling well, which was interfering with her training methods. Respondent told Dr. Johnson that she was a speed skater and that she would be returning back to her training. Dr. Johnson ordered blood work for Lute, which was drawn on April 6 in Dr. Johnson's office.
- Dr. Johnson had a subsequent in-person visit with Lute on April 11, 2023. Johnson discussed Respondent's laboratory results with her. The focus of Dr. Johnson's meeting with Respondent was on her health issues. There were no discussions about whether the treatments would fall within USADA's guidelines. Dr. Johnson knows there are certain substances that elite athletes cannot take. Dr. Johnson knew that Lute could not take testosterone because she was an athlete. Dr. Johnson recommended that Lute take the HG Healthgevity supplement. Dr. Johnson was aware that the Healthgevity supplement contained BPC-157. Dr. Johnson did not know that BPC-157 was on the WADA prohibited list. Dr. Johnson was not aware that the Healthgevity contained DHEA.
- Dr. Johnson never told Respondent that she was an expert in anti-doping matters. Respondent never asked Dr. Johnson if she was an anti-doping expert. Respondent never discussed anti-doping rules with Dr. Johnson. Dr. Johnson hasn't looked at the WADA prohibited list for five years. Dr. Johnson was not aware that IV therapy wasn't allowed.
- Dr. Johnson only had two in-person visit with Respondent. When Respondent left Dr. Johnson's office Respondent was given a number of supplements and a list of the supplements. When Respondent needed to get a refill for the

supplements, Dr. Johnson's office provided Respondent with an on-line source that she could use to obtain the supplements. Respondent never questioned Dr. Johnson's recommendation for IV therapy. Respondent never discussed her anti-doping testing responsibilities, which she was subject to as an elite athlete, with Dr. Johnson. Respondent never asked Dr. Johnson for help in making sure that she didn't take any supplements that were on the prohibited list.

68. Tammy Hanson testified as follows:

- Hanson is the Director of USADA's Elite Education Department. She has been with USADA since 2015.
- Hanson sets strategy for USADA's education department and oversees the day-to-day operations of the Education Department. She is responsible for educating athletes and athlete support personnel on such issues as strict liability and the risk involved with dietary substances. USADA provides educational materials for athletes and athlete support personnel, including Athlete's Advantage tutorials and USADA newsletters.
- Respondent took USADA's tutorial in September 2021, December 2022, and December 2023. One of the key messages in these tutorials is the concept of strict liability. The tutorials educate athletes on using GlobalDRO, and that they should check the status of all substances they take. The tutorials educate athletes on the risk of taking dietary substances. The tutorials advise athletes that they must do their own due diligence but that if they have questions, they can call USADA at its Drug Reference Line. The tutorials also reference Supplement Connect, which is an on-line resource that warns athletes on the risk of taking supplements and provides information on how athletes can reduce that risk.
- Additionally, USADA sends athletes a monthly newsletter with various articles, including anti-doping articles. USADA also has anti-doping articles on its website. Athletes can also contact USADA directly with questions.

69. Dr. Matthew N. Fedoruk testified as follows:

- Dr. Fedoruk has a Ph. D. in Pathology and Laboratory Medicine. Dr. Fedoruk is Chief Science Officer, Science & Research at USADA. He has been at USADA for 13 years.
- Dr. Fedoruk leads USADA's science and research department, works with WADA accredited labs, and works with USADA's testing department, communications department, and education team in formulating scientific content.
- The HG Healthgevity supplement provided by Respondent to SMRTL was reported to contain two Prohibited Substances: BPC-157 detected at approximately 290 micrograms per capsule and DHEA (dehydroepiandrosterone) detected at approximately 0.4 micrograms per



capsule from the sealed container and BPC-157 detected at approximately 200 micrograms per capsule and DHEA detected at approximately 8.5 micrograms per capsule from the open container. BPC-157 is listed on the label of the supplement product, but DHEA is not.

- BPC-157 (Body Protective Compound) is an experimental synthetic peptide drug prohibited at all times (both in- and out-of-competition) under the WADA Prohibited List in the category of S0 Non-Approved Substances. This category contains any pharmacological substance that is not addressed by any of the subsequent sections of the List and that has no current approval by any governmental regulatory health authority for human therapeutic use. BPC-157 is classified as a Specified Substance. BPC-157 is not a legal dietary ingredient in the US, and it is illegal to market or sell this in a dietary supplement. There appears to be no legal basis for selling BPC-157 as a drug, food, or a dietary supplement, and the Food and Drug Administration confirms there is also no legal basis for compounding pharmacies to use BPC-157 in compounded medications. Even though there are no studies or clinical trials that show BPC-157 is safe or effective in humans, some websites related to performance-enhancing drugs advertise that it can be injected or taken orally for bone and joint healing, stomach ulcers, organ damage, and a number of other purposes, including athletic performance enhancement. BPC-157 was added as a S0 Non-Approved Substance beginning with the 2022 WADA Prohibited List and has remained prohibited every year up to the present day. A Global DRO search for BPC-157 returns a result showing its status as prohibited both in- and out-of-competition (prohibited at all times). Due to human metabolism and urinary stability of the short peptide molecule, the parent compound may be very challenging to detect in human urine after an oral dose. There have been no reported adverse analytical findings to date by any WADA-accredited laboratory globally for BPC-157. HG Healthgevity would not pass a supplement certification process since it contains BPC-157, which is a banned substance. If HG Healthgevity was taken at the dosage recommended on the container, it is unknown at this time if BPC-157 would be performance enhancing.
- USADA has resources for athletes that specifically address BPC-157. Those include providing updates to the WADA prohibited list to athletes. Also, because of inquiries involving BPC-157 USADA developed and released information on its website that has been provided to athletes. USADA has a specific article on its website cautioning athletes about the use of BPC-157 and informing them that use of BPC-157 is prohibited.
- DHEA (dehydroepiandrosterone, Prasterone and 3 $\beta$ -hydroxy-androst-5-en-17-one) is prohibited at-all-times under the S1 Anabolic Agents category of the WADA Prohibited List since its inception in 2003. As with all Anabolic Androgenic Steroids, the main anabolic effects are generally categorized as: promoting protein synthesis and muscle growth and corresponding strength

increases, erythropoiesis (stimulation of red blood cell production), and increasing lean muscle mass through a decrease of body fat. DHEA is produced endogenously by the human body, which complicates its detection for anti-doping purposes. The DHEA content of supplements varies considerably, but generally is in the range of 25 to 200 mg/dose. The DHEA detected in Respondent's HG Healthgevity containers is almost 3,000 times lower per capsule than in a standard dose.

- USADA receives over 6,000 DCFs each year. Each DCF includes a declaration section, which asks athletes to list or declare medications, supplements, injections, and intravenous infusions they have received during the last seven days. The total number of declarations is approximately 60,000 per year. USADA tries to review these declarations as best as it can, focusing on medications. But because of the volume of declarations listed, it is not feasible for USADA to review each of them. This is especially true with supplements, because of the sheer number of them and the variety of names they go by. If USADA notices that an athlete is taking a banned substance, it will send out a notice letter to the athlete advising them that they have listed a banned substance.
- USADA sent Respondent an email on October 15, 2021, on key changes to the 2022 WADA prohibited list. The advisory specifically indicated that BPC-157 had been added to the 2022 prohibited list and contained a link where athletes could find out further information about BPC-157. In addition to indicating that BPC-157 was prohibited, the advisory also stated:

While there appears to be no legal basis for selling BPC-157 as a drug, food, or a dietary supplement, athletes should be aware that BPC-157 is being illegally included in some wellness and anti-aging treatments and products. Because BPC-157 has not been extensively studied in humans, there is no established safe dose, nor if there is any proven efficacy of this compound to treat specific medical conditions. Since BPC-157 is not an approved therapeutic agent in any country, there is no basis for granting a TUE for this substance.

70. Dr. Amy Eichner testified as follows:

- Dr. Eichner has a Ph.D. in Medical Sciences (Neuroscience). Dr. Eichner is a Special Advisor on Drugs and Supplements at USADA. She has worked for USADA since 2009. She manages the USADA Global Drug Reference Online database (GlobalDRO.com.). She is also responsible for the dietary supplement high risk list and for dietary supplement education articles.
- The purpose of GlobalDRO is to provide information on whether a particular ingredient or substance is prohibited. An athlete can search for any ingredient or substance on GlobalDRO. GlobalDRO can be accessed via the website or via the athlete express application.

- A search for an ingredient or substance will provide a hit or list other potential matches. When an ingredient or substance is listed as a hit, if a person clicks on the hit, it will take the person to a page that indicates whether the substance is prohibited.
- When making a search for “BPC-157,” the user will get an exact hit. Clicking on BPC-157 would show that it is prohibited at all times. A search for “BPC” or “Body Protected Compounds” also brings up a hit for “BPC-157” and clicking on it indicates that it is prohibited at all times.
- USADA retains data information regarding searches conducted on GlobalDRO, including search terms entered by a user. Dr. Eichner understood that Respondent indicated that she made searches for “BPC+PEA 500” and “BPC-157 Arginate Salt.” USADA did not find any searches in its data information system between January 1, 2023, and February 29, 2024, for those terms.

## IX. DISCUSSION AND MERITS

### A. Burden and Standard of Proof

71. As set forth in Article 3.1, USADA has “*the burden of establishing that an anti-doping rule violation has occurred.*”
72. Also, as set forth in Article 3.1, the standard of proof is whether USADA “*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.*” Article 3.1 goes on to state that “*This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.*”
73. Further, as provided in Article 3.1, “*Where the Code places the burden of proof upon the Athlete 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.*”

### B. Anti-Doping Rule Violation

74. Respondent admits that she committed an anti-doping rule violation of Article 2.2 for her use of the HG Healthgevity supplement, which contained BPC-157 and DHEA.
75. Accordingly, the Arbitrator finds that Respondent has committed violation of Article 2.2 by her use of BPC-157 and DHEA.
76. The period of ineligibility imposed for a violation of Article 2.2 is four years.

C. Reduction of Period of Ineligibility if Anti-Doping Rule Violation was Not Intentional

77. Pursuant to Articles 10.2.1.1, 10.2.1.2, and 10.2.2 Respondent's period of ineligibility may be reduced from four to two years if the anti-doping rule violation was not intentional.
78. Article 10.2.3 provides that the term "intentional" is meant to identify those athletes who (i) engage in conduct that they knew constituted an anti-doping rule violation or (ii) 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.
79. Respondent asserts that her anti-doping rule violation was not intentional as defined in Article 10.2.3. Respondent admits that she was taking HG Healthgevity but contends that she did not know that doing so would constitute an anti-doping rule violation. Respondent further contends that she was not aware there was a significant risk in taking HG Healthgevity and so could not have manifestly disregarded that risk.
80. USADA does not contest Respondent's assertion but accepts that Respondent was not intentionally doping.
81. Accordingly, the Arbitrator finds that Respondent's anti-doping rule violation was not intentional.
82. Pursuant to Articles 10.2.1.1, 10.2.1.2, and 10.2.2, Respondent's period of ineligibility is reduced from four to two years.

D. Reduction of Period of Ineligibility for No Significant Fault or Negligence

83. Pursuant to Article 10.6.1, Respondent may be able to reduce her period of ineligibility further, if she can show that she was not significantly at fault or significantly negligent. This is the core issue to be addressed in this arbitration.
84. During testing of Respondent's HG Healthgevity supplement, SMRTL detected both BPC-157 and DHEA. BPC-157 is a specified substance. DEAH is not a specified substance. However, it is undisputed that Respondent's HG Healthgevity supplement was contaminated with DHEA. Thus, the period of ineligibility may be reduced for the use of both substances, albeit under different subsets of 10.6.1.

85. Article 10.6.1.1 provides that if the anti-doping rule violation involves a specified substance (in this case BPC-157) and the person who has committed that anti-doping rule violation 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 Athlete’s or other Person’s degree of Fault.*”
86. Article 10.6.1.2 states that if the person who has committed an anti-doping rule violation “*can establish both No Significant Fault or Negligence and that the detected Prohibited Substance ... came from a Contaminated Product*” (in this case DHEA came from contamination of the HG Healthevity supplement) “*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 Athlete or other Person’s degree of Fault.*”
87. While the use of BPC-157 as a specified substance is analyzed under Article 10.6.1.1 and the use of DHEA as a contaminated product is analyzed under Article 10.6.1.2, both examine Respondent’s degree of fault in using the substance and both have the same sanction ranges, between two years and a reprimand and no period of ineligibility
88. Respondent contends that she was not significantly at fault or negligent using either BPC-157 or DHEA. USADA counters that Respondent cannot meet her burden in that she was significantly at fault or negligent in her use of BPC-157. USADA does not contest Respondent’s contention that she was not significantly at fault or negligent for her use of DHEA, which occurred because of contamination of the HG Healthevity supplement. Since the Parties agreed that Respondent’s use of BPC-157 is the more problematic, and would carry the more lengthy sanction, if any, of the two, the Parties addressed Respondent’s use of BPC-157 pertaining to the issue of whether Respondent was significantly at fault or negligent. The Parties agreed that in light of Respondent’s use of BPC-157, Respondent’s use of DHEA would not affect the length of her sanction, if any, under 10.6.1. For the above reasons, the Arbitrator focuses his analysis on Respondent’s use of BPC-157.
89. If Respondent can carry her burden of establishing no fault or negligence for her use of BPC-157, then her degree of fault would be assessed under the framework outlined in *Cilic v. ITF*, CAS 2013/A/2237 (2014) and her period of ineligibility assessed accordingly.
90. If Respondent cannot carry her burden (Respondent cannot show by a balance of probability that when viewed in the totality of the circumstances she was not significantly at fault or negligent for her use of BPC-157) then no further analysis is necessary, as pursuant to 10.6.1 the sanction is two years.

- a. Respondent's Position on No Significant Fault or Negligence
91. Respondent relies on the following factors as proof that she was not significantly at fault or significantly negligent:
  92. It is only because of Respondent's honesty and diligence in filling out her DCFs that she was charged with a violation of Article 2.2 for use of BPC-157. If Respondent had not declared her use of HG Healthgevity supplement (listed on her DCFs as "HG Healthgevity BPC+PEA 500") on her DCFs her use of a prohibited substance would never have been flagged by USADA. Respondent never tested positive for BPC-157. Therefore, the only basis for Respondent's anti-doping rule violation is her honest disclosure on her DCFs.
  93. In Respondent's consultations with Dr. Johnson in April 2023, Respondent informed Dr. Johnson that Respondent was an elite athlete. Even so, Dr. Johnson prescribed the HG Healthgevity supplement for Respondent.
  94. It was Respondent's custom to search for her medications and supplements on GlobalDRO to ensure that they did not contain banned substances. Although Respondent searched for the HG Healthgevity supplement on GlobalDRO, she didn't find that it was prohibited. Based on her search, Respondent logically, albeit mistakenly, thought it would be safe to take the HG Healthgevity supplement. Respondent admits that she can't remember the exact search terms she used, but there is a reason for that, as she conducted her search in April 2023. Respondent acknowledges that she could have used better search terms, but that is an argument that she was at fault or negligent, not that she is significantly at fault or significantly negligent.
  95. Respondent was careful about what she took. Respondent chose not to take certain medications and supplements that were recommended to her, but she did not take them because she knew they were prohibited.
  96. Respondent listed the HG Healthgevity supplement (listed as "HG Healthgevity BPC+PEA 500"), on the five DCFs that Respondent provided on May 7, 2023, May 26, 2023, November 13, 2023, January 30, 2024, and February 29, 2024. These DCFs were provided as part of the sample collection process for testing for prohibited substances. USADA did not notify Respondent until March 7, 2024, that HG Healthgevity contained BPC-157, which was prohibited. Because USADA failed to notify Respondent after she first listed the HG Healthgevity supplement on May 7, 2023, Respondent assumed that the supplement did not contain a prohibited substance and was okay to take.
  97. Respondent's belief that HG Healthgevity was safe to take was repeatedly reinforced by the fact that she tested negative multiple times and received letters from USADA stating each time that no prohibited substances were found in her samples. Because of these tests

Respondent assumed that the HG Healthgevity supplement did not contain a prohibited substance.

98. Respondent had a meeting with Dr. Albano, US Speedskating's physician on April 24, 2023. Respondent filled out a "USS Sports Medicine Comprehensive Review" form as part of that meeting. Respondent listed the medicines and supplements she was taking. One of the supplements Respondent listed was "BPC+PEA 500." Respondent and Dr. Albano discussed Respondent's use of prednisone during the meeting. However, Dr. Albano never indicated that the HG Healthgevity supplement was prohibited. Accordingly, Respondent had no reason to believe that her taking the HG Healthgevity supplement would be a problem.
99. USADA sent Respondent a "Declaration Courtesy Letter" via email from on April 18, 2023. This letter notified Respondent that she had declared prednisone on her April 4, 2023, DCF. Use of prednisone is banned in-competition. Because Respondent never got a "Declaration Courtesy Letter" from USADA regarding her declarations of "BPC+PEA 500" on her DCFs, she assumed that her taking the HG Healthgevity supplement was okay and didn't contain a prohibited substance.
100. Turning to supporting cases, Respondent cites, *Knauss v. FIS*, CAS 2005/A/847 (2005). Respondent states that in *Knauss*, the arbitral panel provided following guidance:

the requirements to be met by the qualifying element 'no significant fault or negligence' must not be set excessively high" because "the higher the threshold is set for applying the rule, the less opportunity remains for differentiating meaningfully and fairly with the (rather wide) range of the sanction.

*Id.* ¶ 7.3.5.

101. Additionally, Respondent relies on *WADA v. USADA, USB&SF & Lund*, CAS OG 06/001 (2006) as precedent for finding that Respondent is not significantly at fault or negligent. Respondent states that Lund included on his DCF that he was taking a medication that was known to anti-doping organizations to contain a prohibited substance, and yet this was not picked up by any anti-doping organization until Lund's positive test. Respondent argues that her case is similar to Lund where the arbitral panel found that, "Lund has satisfied it that in all of the circumstances he bears No Significant Fault of Negligence, and, therefore, reduces the period of ineligibility from two years to one year." *Id.* ¶ 4.17.
102. Respondent further contends that USADA's reliance on *USADA v. Bailey*, CAS 2017/A/5320 (2018), where the athlete was found to be significantly negligent where he used his teammate's pre-workout supplement but took no steps to check if it contained any banned substances, is entirely misplaced, given the significant factual differences between *Bailey* and Respondent.

103. Respondent states that in Bailey, the arbitral panel based its decision on Baley’s lack of care, finding that Bailey:

acknowledged that he did not look, or even think to look, at the supplement container before consuming it. He did not ask Mr. Schrodte [his teammate] the name of the supplement or what its ingredients were, either in the shed, while at the athlete accommodations or at any other time during the Competition. He did not make any attempt to research the supplement, or search its ingredients, either in GlobalDRO or Supplement411 until after being notified of the ADRV. When asked by a Panel member what steps he had taken to protect himself from potential risks posed by the supplement he was taking, his response was "absolutely none."

*Id.* ¶ 99.

104. Respondent reiterates the arbitral panel’s statement that “it is not a matter of what steps Mr. Bailey took; rather, in the Panel's view, it is hard to see how Mr. Bailey could have done less.” *Id.* ¶ 101. Respondent contrasts Bailey’s actions with Respondent’s, arguing that Respondent took significant steps to make sure that she did not ingest any banned substances.

105. Further, Respondent addresses *USADA v. Downing*, AAA 01-21-0016-9375 (2022), a case relied on by USADA. Respondent argues that the facts are pointedly different because Respondent conducted a search on GlobalDRO and Downing did not. Further, Respondent asserts that Respondent listed “BPC+PEA 500” on her DCFs, whereas Downing did not list her testosterone cream on her DCF, which she provided when she gave her sample.

106. Accordingly, Respondent submits that she has established that she bears no significant fault or negligence in her use of the HG Healthgevity supplement, which contained BPC-157. Thus, Respondent submits that the Arbitrator should turn to an analysis under *Cilic* to determine the length of her period of ineligibility.

b. USADA’s Position on No Significant Fault or Negligence

107. USADA relies on the following factors as proof that Respondent was significantly at fault or significantly negligent.
108. Respondent failed to take basic steps to educate herself about BCF-157, which was listed as an ingredient on the front and back of the bottle labels, prior to consumption of the HG Healthgevity supplement.



109. Respondent is an elite-level athlete in the RTP who has received extensive education on the use of supplements from USADA. Respondent has been in the RTP since 2021 and has taken a tutorial in each of the years 2021, 2022 and 2023. These tutorials explain to athletes that they are strictly liable for substances they use. The tutorials also specifically speak of the risks of taking supplements.
110. USADA also reminds athletes that they need to do their own due diligence in taking a supplement. This due diligence can include utilizing a number of different methods, including using GlobalDRO, going to Supplement Connect, reaching out to USADA directly by calling its Drug Reference Team, and conducting independent web searches. Athletes should use all available sources to check out supplements they intend to take.
111. USADA's education tutorials specifically advise athletes of the risks of supplements. If athletes choose to use supplements despite the known risks, USADA recommends that athletes use only dietary supplements that have been certified by a third party-program that tests products against the current WADA Prohibited List. But USADA's prime message is that it is not safe to use supplements.
112. USADA also informed Respondent directly that BPC-157 was prohibited. In an Athlete Advisory sent to Respondent via email on October 15, 2021, titled "Explanation of Key Changes on 2022 WADA Prohibited List" USADA stated:

BPC-157

BPC-157 was not prohibited prior to 2022, but the clinically unapproved experimental peptide was added to the 2022 WADA Prohibited List under the S0 Unapproved Substances category.

While there appears to be no legal basis for selling BPC-157 as a drug, food, or a dietary supplement, athletes should be aware that BPC-157 is being illegally included in some wellness and anti-aging treatments and products.

Because BPC-157 has not been extensively studied in humans, there is no established safe dose, nor if there is any proven efficacy of this compound to treat specific medical conditions. Since BPC-157 is not an approved therapeutic agent in any country, there is no basis for granting a TUE for this substance.

For more information on BPC-157, [click here](#).

113. Resources are also available on USADA's website pertaining to BPC-157. By going to the USADA website and doing a search for BPC-157, the following article comes up "BPC-157: Experimental Peptide Prohibited" The article, first published in March 2020, and last updated October 9, 2023, states:

The experimental peptide BPC-157 is prohibited under the World Anti-Doping Agency (WADA) Prohibited List in the category of S0 Unapproved Substances. Furthermore, this substance is not approved for human clinical use by any global regulatory authority and it may lead to negative health effects.

The article goes on to state that BPC-157 has not been extensively tested in humans, so no one knows if it is safe, that it is not currently approved for use as a human drug, and that there is no clinical basis for granting a TUE for it. The article concludes by advising if there are questions about specific products, substances, and methods, contact USADA's Drug Reference Line.

114. In Respondent's interview on May 7, 2024, with USADA investigator John Loney, Respondent was asked whether she conducted any internet research of HG Healthgevity. Respondent stated, "I don't Google search or look into anything in-depth." If Respondent had done even a simple Google search, which Respondent acknowledged she did not perform, of "BPC-157," "BPC+PEA 500" or "BPC-157 Arginate Salt" the search would have returned a first page result of the October 9, 2023, article on USADA's website titled "BPC-157: Experimental Peptide Creates Risk for Athletes." Respondent also did not do a search for the manufacturer of HG Healthgevity.
115. The HG Healthgevity supplement bottle listed "BPC-157" and "BPC+PEA 500" on the front of the bottle label. "BPC-157 Arginate Salt." is listed on the back of the bottle label. Upon review of its GlobalDRO Search Data, USADA has no record of any searches for the terms "BPC+PEA 500" and "BPC-157 Arginate Salt." being made in April 2023, when Respondent began taking the HG Healthgevity supplement, or at any other time between January 1, 2023, and February 29, 2024. If Respondent had searched those terms on GlobalDRO, her search would have displayed "BPC-157" as a clickable option, and clicking BPC-157 leads to a page which unequivocally confirms that BPC-157 is prohibited at all times.
116. If Respondent had searched for "BPC" or "BPC-157" on Global-DRO she would also have been informed that BPC-157 is prohibited at all times.
117. If Respondent had done a search on GlobalDRO, and her search did not indicate a match, she would have gotten the following message:

Your search did not return an exact match. This does NOT mean your medication is permitted. Confirm the spelling of your medication. If you cannot find an exact match contact us [USADA] for more information.

Respondent makes no claim that she contacted USADA because she was not able to get an exact match concerning the ingredients listed on the HG Healthgevity bottle.

118. Respondent cannot rely on Dr. Johnson as justification for her using BPC-157. Although Respondent may have told Dr. Johnson that Respondent was an elite athlete, Respondent had no discussion with Dr. Johnson regarding the restrictions on her use of certain substances because they were prohibited. Dr. Johnson had no specific knowledge of the WAD Code, the prohibited list, or the testing requirements placed on elite athletes. Even when Dr. Johnson recommended that Respondent pursue IV vitamin therapy and IV ozone therapy, Respondent did not raise this as an issue with her. In Respondent's interview on May 7, 2024, with USADA investigator John Loney, Respondent explained that when Dr. Johnson gave her the HG Healthgevity supplement, "there were maybe four or five other bottles of supplements in a gift bag, and I just took it home. We never really reviewed what was in it."
119. USADA receives over 6,000 DCFs each year. On those DCFs athletes declare over 56,000 different substances. It would be impossible for USADA to manually review every declaration listed on a DCF. Respondent's efforts to blame USADA and make USADA responsible for her use of BCF-157 flies in the face of the WAD Code, which places the burden on the Respondent to ensure that no prohibited substance enters her body.
120. Respondent's attempt to shift responsibility of her use of BCF-157 to US Speedskating is without merit. Although Respondent filled out a "USS Sports Medicine Comprehensive Review" form, and she listed "BPC+PEA 500" on that form, and met with Dr. Albano, there is no evidence that Respondent ever raised her use of the HG Healthgevity supplement with Dr. Albano. He was not called as a witness. The form looks like a yearly clearance document for participating in speedskating. Further, it is Respondent's responsibility to ensure that she does not use prohibited substances, not Dr. Albano's or US Speedskating's responsibility.
121. As for supporting cases, USADA relies on *USADA v. Downing*, AAA 01-21-0016-9375 (2022), which found that Downing was significantly at fault or negligent. USADA asserts that Downing is nearly identical to the facts presented in this case and points out the following similarities. In both cases the prohibited substance was indicated on the container. Also, like Downing, Respondent failed to conduct the necessary search to determine if the supplement was banned. Also, like Downing, Respondent did not discuss with her medical provider her responsibilities as an elite level athlete and the care she needed to take not to consume prohibited substances. Further, like Downing, Respondent did not discuss the prescribed supplement with her medical provider to determine what ingredients the supplement contained and if they were prohibited.
122. USADA argues that the reasoning provided in *Downing* is the same as should be applied in this case for finding that Respondent is significantly at fault or negligent:

In the Arbitrator's view, Respondent ignored her primary and personal responsibility to ensure that no prohibited substances entered her body. Given Respondent's experience and knowledge, she should have questioned what was in the cream and should have known that resources were available to her to find out if the cream contained a prohibited substance. Even though she had plenty of time [] to check on the ingredients in the cream and she had extensive anti-doping education, Respondent failed to take the most basic steps in ascertaining what was in the cream. She did not conduct any research on her own, did not request anyone else to conduct such research, did not check the container's label and did not utilize the resources she had available to her, including searching on GlobalDRO, calling USADA's Drug Reference Phone Line, searching the USADA website and reaching out to USADA directly by phone

*Id.* ¶ 141.

123. USADA also cites *Bailey*, for support of its position that Respondent is significantly at fault or negligent for use of BPC-157. USADA states that Bailey was provided significant anti-doping education, but he failed to review the product label, which listed a prohibited substance, or conduct the required due diligence before using the supplement. USADA states that Bailey failed to conduct any research on the product or contact USADA's available helplines prior to using the product. USADA states that is also the case with Respondent. USADA points out that the arbitral panel concluded that Bailey's failure to take basic steps to vet a supplement that disclosed a prohibited substance on the label did not warrant a finding of no significant fault.
124. Regarding Respondent's reference to *Lund*, USADA points out that *Lund* was decided under the 2003 WAD Code. USADA argues that the 2003 WAD Code is materially different from the 2021 WAD Code, including that fault is not a defined term in the 2003 WAD Code, whereas it is defined in the 2021 WAD Code. Further, USADA contends that since 2003, pursuant to CAS jurisprudence and updates to the WAD Code, the definition of fault has materially and significantly changed. USADA asserts that Respondent's reliance on *Lund* is flawed and without merit.
125. In conclusion, USADA asserts that Respondent was significantly at fault or negligent in her use of the HG Healthgevity supplement, which contained the prohibited substance BPC-157. Accordingly, USADA requests that the Arbitrator find that Respondent has not met her burden of proof as required by Article 10.6.1 and that her proper sanction is two years.
  - c. Arbitrator's finding
126. As a starting point, Article 2.2.2 recognizes that athletes are responsible for every substance that enters their bodies, a concept known as strict liability.

127. To qualify for a sanction below two years, as set out in Article 10.6.1, Respondent must first demonstrate, by a balance of probabilities, that she exhibited no significant fault or negligence with respect to her violation.

128. The WAD Code, in Appendix 1 – Definitions, defines no significant fault or negligence as:

*[t]he Athlete or other Person’s establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence,<sup>12</sup> was not significant in relationship to the anti-doping rule violation . . .*

129. Further, in *Bailey*, the CAS Panel stated:

In determining fault, the Panel should consider (a) the degree of risk that should have been perceived by the athlete; and (b) the level of care and investigation exercised by the athlete in relation to the perceived level of risk (see CAS 2017/A/5015 & 5110).”

*Id.* ¶ 84.

130. After considering the Parties arguments and evidence presented, including briefs, witness testimony and exhibits, the Arbitrator finds that Respondent’s actions fall below the standard of care expected of an elite athlete and that Respondent has not met her burden of showing that she is not significantly at fault or negligent.

131. In making this determination, the Arbitrator points to the following factors:

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<sup>12</sup> The criteria for No Fault of Negligence are that the athlete “*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 a Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule.” WAD Code, Appendix 1 – Definitions.

132. First and foremost, the HG Healthgevity supplement bottle listed the ingredient BPC-157 on both the front and back labels as is shown below:



133. BPC-157 is a prohibited substance. Even if Respondent did not immediately recognize that BPC-157 was prohibited, she should have conducted a thorough investigation to determine what it was and whether it was prohibited. The label should have been a red flag for her to stop and take care before beginning a regimen of taking a supplement that she had never taken before and was not familiar with.
134. Respondent is an elite level athlete. As such she has received extensive education regarding the use of supplements and her anti-doping responsibilities. USADA's education tutorials educate athletes that they are strictly liable for whatever enters their system. The tutorials and other on-line materials provided by USADA warn athletes about the risks of taking supplements, as those supplements can contain prohibited substances. Although USADA advises athletes that if they determine to use dietary supplements, they should only use those that have been certified by a third party-program that tests products against the current WADA Prohibited List, USADA's prime message is that it is not safe to use supplements. The education that Respondent received about the dangers associated with supplements should have put her on guard before consuming HG Healthgevity.
135. Although Respondent testified that she is sure she did a search on GlobalDRO, Respondent cannot at this time remember what search terms she entered, because of the time that has passed between from when she conducted the search, most likely in April 2023, and now. In conducting her search, it is apparent that Respondent did not take the care needed in putting in valid search terms. It is difficult to understand what search terms Respondent might have entered that would not have brought up BPC-157, indicating that it was a prohibited substance. BPC-157 is clearly identified on the bottle. The front of the bottle listed "BPC+PEA 500." The back of the bottle listed "BPC-157 Arginate Salt." USADA presented evidence that during the time frame from January 1, 2023, through May 31, 2023, there were no searches on GlobalDRO for either of those terms. Further,

the Arbitrator is convinced from the evidence presented, including a demonstration that occurred during the hearing, that any insertion of “BPC,” “BPC+PEA,” “BPC+PEA 500,” or “BPC-157” as a search term into GlobalDRO would have resulted in a positive hit indicating that BPC-157 was prohibited. Even if the search terms Respondent entered into GlobalDRO did not produce a match, she would have gotten a message indicating that “[t]his does not mean your mediation is permitted” and instructing her to contact USADA for more information. Respondent did not do this. USADA makes GlobalDRO available for athletes to use, but it cannot be responsible if needed care is not taken by those using it, either to put in proper search terms or to contact USADA if there is a question about their search.

136. Further, other than Respondent’s recollection that she did a search on GlobalDRO, Respondent did not take advantage of other resources USADA made available to her to check on the HG Healthgevity supplement. Those resources include USADA’s Drug Reference Phone Line, which allows athletes to speak directly with a representative of USADA and to email USADA about questions they may have, including questions about supplements. USADA also has information available to athletes on its website under its Supplement Connect program, which provides extensive information on supplements.
137. USADA also made other information available to Respondent regarding use of BPC-157, either directly or through a search on its website. On October 15, 2021, USADA sent Respondent a two-page Athlete Advisory, explaining key changes to the 2022 WADA prohibited list and indicated that BPC-157 was prohibited. USADA sent monthly newsletters to Respondent on October 29, 2021, and December 17, 2021, which repeated that advisory. On April 22, 2022, USADA emailed Respondent another athlete newsletter with a headline in bold font that read: “BPC-157: Experimental Peptide Prohibited Under 2022 Rules.” Also, an article on USADA’s website, first published in March 2020, and last updated October 9, 2023, stated that BPC-157 was prohibited.
138. Additionally, Respondent did not do a web search of “HG Healthgevity,” “BPC-157,” “BPC+PEA,” or “BPC+PEA 500.” She also never checked on the manufacturer of HG Healthgevity to determine if it was a reputable company or if it had any issues concerning the supplements it was marketing.
139. Respondent did inform Dr. Johnson that Respondent was an elite athlete. However, this is as far as the discussion seems to have gone. There was never a discussion about the prohibited list, about prohibited substances or about the care that Respondent needed to take to ensure that she did not take a medication or supplement that contained a banned substance. Respondent never asked Dr. Johnson, either during her consultation, or after, for help in checking whether the HG Healthgevity supplement contained a banned substance. In sum, Respondent never discussed her use of HG Healthgevity with Dr. Johnson. This is in contrast with when Respondent met with Dr. Gary Solomon at NYU Langone Health. When Dr. Solomon recommended that Respondent take prednisone, she

checked for this medication on GlobalDRO in Dr. Solomon's office and informed him that she could not take it while competing. Dr. Solomon and Respondent then put together a treatment plan, which included Respondent's discontinuance of taking prednisone during her competition season.

140. Respondent attempts to shift the blame for Respondent's anti-doping violation to USADA. Respondent points to two factors supporting this shift. First, USADA failed to notify Respondent that she was taking a prohibited substance when Respondent listed "HG Healthgevity BPC+PEA 500" on her DCFs. Second, it was reasonable for Respondent to assume that USADA would notify her if she listed a banned substance on her DCFs, because on April 18, 2023, USADA sent Respondent via email a "Declaration Courtesy Letter" regarding her declared use of prednisone. However, Respondent's reliance on this argument to relieve her of her obligation fails. USADA does not check all DCFs to determine if they contain banned substances, and it has never informed athletes that it does so. As the testimony shows, USADA gets over 6,000 DCFs each year. On those 6,000 DCFs, over 56,000 different substances are declared each year. Because of the sheer volume of substances declared, it would be prohibitive for USADA to check each and every one of them. When USADA does notice a prohibited substance, it notifies the athlete, as was the case with USADA's letter to Respondent regarding her listing of prednisone. However, there is nothing in that letter indicating that USADA makes checks on all substances listed on DCFs, or that Respondent would be notified in the future for substances she has listed. Further, substances listed on a DCF are substances that the athlete is already taking, so their use, if prohibited, would already have occurred.
141. Respondent also points to her meeting with Dr. Joseph Albano during her US Speedskating Medicine Comprehensive Review in April 2023, as support that she is not significantly at fault or negligent for her use of BPC-157. Respondent states that she listed "BPC+PEA 500" on her review form. However, there is no evidence as to the purpose of this review. USADA suggests that it may be a competition clearance meeting. There is no evidence that Respondent and Dr. Albano went over all of Respondent's medications and supplements during the review. Although Respondent indicated that she brought up and discussed her use of prednisone with Dr. Albano, there is no evidence that any of the other medications or supplements Respondent listed were discussed. Dr. Albano was not called to testify, so the Arbitrator does not have other information to consider. In any event, this single meeting, in light of the other factors considered, would not take Respondent out of being significantly at fault or negligent.
142. Respondent cannot delegate her responsibility to USADA or others, including US Speedskating, to ensure that she would not take a banned substance. The responsibility is hers. Only she can have control over what she takes. Others may be able to provide assistance, and USADA clearly has tried to do this with education tutorials, on-line information and GlobalDRO, but they are not responsible.



143. The Arbitrator is of the view that this case is similar to *Downing*. Both Respondent and Downing took prohibited substances (supplements – one in the form of a pill and the other in the form of a cream) prescribed to them without recognizing the risk involved or without taking the necessary level of care and investigation needed in relation to that level of risk.
144. This case is difficult. No one is suggesting that Respondent is a cheater, as that term is used in the doping world. Respondent was not taking BPC-157 to enhance her performance. She was not trying to use BPC-157 in order to gain an unfair advantage over her fellow competitors. Respondent is not a doper. She is a young woman who was trying to improve her health. But Respondent failed to take the precautions that are necessary and required of all elite athletes. Respondent's degree of fault/negligence is significant. BPC-157 was listed on both the front and back labels of the HG Healthgevity supplement bottle. Any reasonable and thorough search on GlobalDRO would have alerted Respondent that BPC-157 is prohibited. Also, Respondent didn't call USADA's Drug Reference Phone line. She didn't conduct any research on her own. She didn't discuss her use of the HG Healthgevity supplement with her doctors.
145. If there is anything to take from this case, it is that supplement use is risky. No dietary supplement can be guaranteed to be free of prohibited substances, either because the prohibited substance is an intended ingredient, or the supplement is contaminated. Athletes taking supplements must be on guard. They must read the supplement label and be diligent in their search to ensure that the supplement does not contain a prohibited substance. They should be certain that the supplement is necessary and will provide real health benefits. They should speak with individuals who are knowledgeable and who will give frank advice about the risks involved with supplement use. They should not take a supplement just because it is prescribed by a medical doctor.
146. As Respondent has not met her burden by a preponderance of the evidence that she was not significantly at fault or negligent, she is not entitled to a reduction of the two-year period of ineligibility under Article 10.6.1. Accordingly, the Arbitrator will not proceed to an analysis under *Cilic*.

E. Reduction of Period of Ineligibility for Voluntary Admission of Anti-Doping Rule Violation

147. Respondent seeks a reduction of her period of ineligibility pursuant to Article 10.7.2, which states:

*Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted*

*violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one-half of the period of Ineligibility otherwise applicable.*

148. Respondent asserts that USADA's entire case against her is based on her own admissions and honest disclosures on her DCFs that she was taking the HG Healthevity supplement, which contained BPC-157. Since Respondent never tested positive for BPC-157, and there is no test at this time to detect BPC-157 in an athlete's urine sample, Respondent states that the only evidence of her anti-doping rule violation is her disclosures. Respondent contends that those disclosures amount to a voluntary admission of Respondent's anti-doping rule violation, and accordingly Respondent is eligible for a reduction in her period of ineligibility.
149. USADA states that because nearly every substance on the prohibited list can be detected in a laboratory analysis, it has never applied Article 10.7.2 because an athlete has made a disclosure on the athlete's DCF. USADA explains that an athlete's declared use of a prohibited substance on a doping control form would typically not be grounds for application of the Article, considering that the athlete would expect to test positive for the substance.
150. USADA concedes, however, that this case is unique because at this time BPC-157, when taken orally, is virtually undetectable in urine. This is further confirmed by the fact that USADA is aware of no positive tests for BPC-157 from any WADA-accredited laboratory in the world since it was added to the Prohibited List in 2022.
151. Because effectively no sample collection could establish an anti-doping rule violation, and because Respondent's admissions of BPC-157 use on her DCFs is the only reliable evidence of her anti-doping rule violation, and because her admissions were made prior to any notice from USADA of a possible violation, USADA acknowledges that Article 10.7.2 could arguably apply in this matter.<sup>13</sup>
152. After considering the particular circumstances of this matter, including Respondent's voluntary disclosures on her DCFs that she was using a banned substance and that these disclosures are the only evidence of Respondent's anti-doping rule violation, the Arbitrator finds it appropriate to apply Article 10.7.2 and reduce Respondent's period of ineligibility.

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<sup>13</sup> USADA points out that the comment to Article 10.7.2 states that it should not apply in cases where the athlete "believes he or she is about to be caught," which arguably could pertain to declarations made during sample collection, since athletes should reasonably expect to test positive if they are taking a prohibited substance. However, USADA does not pursue this as a reason to deny the application of Article 10.7.2 in this matter. Further, the Arbitrator notes that Respondent did not list BPC-157 on her DCFs because she believed she was about to be caught or charged with an anti-doping rule violation. She listed BPC-157 on her DCF simply because it was one of the substances she was taking.

153. Application of Article 10.7.2 allows for Respondent's period of ineligibility to be reduced, but not below one-half of the period of ineligibility otherwise applicable. Respondent's applicable period of ineligibility is two years. Thus, the maximum reduction that can be applied is one year.
154. USADA submits that if the Arbitrator determines that Article 10.7.2 applies to Respondent, then the maximum one-year reduction is appropriate.
155. Accordingly, in consideration of the above, the Arbitrator finds that a reduction of Respondent's period of ineligibility under Article 10.7.2 is appropriate. Respondent's period of ineligibility is reduced by one year.

F. Factors Relating to an Athlete's Career

156. During the course of the hearing Respondent recounted how a lengthy period of ineligibility would affect her career. She stated that team training begins in August and indicated that because of the nature of short track competitions it is critical to skate with other athletes to prepare for those competitions. Respondent stated that if she could start training immediately, she would be able to pursue her goal of making the U.S. Team and competing in the Winter Olympics. If not, and she received a lengthy period of ineligibility, it would probably end her career.
157. The issue relating to an athlete's career is addressed in the WAD Code. In defining "Fault" in Appendix 1 – Definitions, the Code states:

*... the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in a career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.6.1 or 10.6.2.*

158. Accordingly, factors relating to Respondent's athletic career were not considered by the Arbitrator in analyzing whether Respondent was significantly at fault or negligent or whether her period of ineligibility should be reduced.

**X. PERIOD OF INELIGIBILITY AND RESULTING CONSEQUENCES**

A. Period of Ineligibility

159. Pursuant to the Arbitrator's finding that Respondent did not discharge her burden of proving, by a balance of probability, that she was not significantly at fault or not significantly negligent for her use of the HG Healthgevy supplement, which contained

the prohibited substance BPC-157, Respondent does not qualify under Article 10.6.1 for a reduction of her period of ineligibility of two years.

160. However, Respondent does qualify for a reduction of her period of ineligibility of one year pursuant to Article 10.7.2. Therefore, applying this reduction, Respondent's period of ineligibility is reduced from two years to one year.

B. Sanction Start Date and Credit for Provisional Suspension

161. WAD Code Article 10.13 states:

*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.*

162. Further, WADA Code Article 10.13.2.1 states:

*If a Provisional Suspension is respected by the Athlete or other Person, then the Athlete or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed.*

163. Both Parties agree, and the Arbitrator finds, that the start date for Respondent's period of ineligibility is April 10, 2024, the date USADA imposed the provisional suspension.

164. USADA did not allege or demonstrate that Respondent failed to respect her provisional suspension. Therefore, Respondent shall receive credit for the period of her provisional suspension running from April 10, 2024.

165. Imposition of a one-year period of ineligibility and allowing a credit for the period of the provisional suspension, results in the expiration of Respondent's ineligibility on April 9, 2025.

C. Disqualification of Results Subsequent to Sample Collection/Commission of Anti-Doping Rule Violation

166. Pursuant to Article 10.10, USADA requests disqualification of any results obtained by Respondent on and after May 7, 2023, through the commencement of her provisional suspension on April 10, 2024. May 7 is the date the date Respondent first declared on her DCF that she was using "HG Healthgevity BPC+PEA 500" and is the date of the occurrence of her anti-doping rule violation.

167. WAD Code Article 10.10 provides:

*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 Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping 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*

168. Respondent contends that because of the circumstances of this matter, fairness requires that her results not be disqualified. Respondent points out that she was not notified of her possible anti-doping rule violation by USADA until March 7, 2024, almost a year after she first listed her use “HG Healthgevity BPC+PEA 500.”

169. During the period between May 7, 2023, and April 10, 2024, Respondent competed in four competitions, as set forth below:

- Canadian Invitational (Montréal, QC, Canada) - December 8-10, 2023 (no prizes/medals and no points for standing) (Respondent scratched/pulled out of the competition due to health issues).
- US Junior Championships & Winter World Cup Qualifier Short Track (Salt Lake City, UT, USA) - January 6-8, 2024 (5th Place Overall (Senior Classification) and 4th Place Overall (Junior Classification), 3rd Place and Bronze Medal 1500m Junior Distance Classification, 3rd Place and Bronze Medal 500m Junior Distance Classification).
- ISU Junior World Cup Short Track Speed Skating (Heerenveen, Netherlands) - February 17-18, 2024 (no prizes/medals and no points for standing) Respondent scratched/pulled out of the competition due to health issues.
- ISU World Junior Short Track Speedskating Championships (Gdansk, Poland) - February 22-25, 2024 (no prizes/medals and no points for standing) (scratched multiple races due to health issues and concussion).

170. In reviewing whether results should be disqualified retroactively, arbitral panels have followed the mandate as set out in *FIFA & WADA, CAS 2005/C/976 & 986* (Advisory Opinion 2006):

*To find out whether a sanction is excessive, a judge must review the type and scope of the proved rule-violation, the individual circumstances of the case, and the overall effect of the sanction on the offender.*

*Id.* ¶ 143.

171. Further, arbitral panels have broad discretion in considering whether results should be disqualified retroactively. As set forth in previous CAS cases and repeated in *IAAF v. RUSAF & Kondakova*, CAS 2018/O/5713 (2019) ¶72., “CAS case law confirms that the panels have broad discretion in adjusting the disqualification period to the circumstances of the case.”
172. Of the four competitions that Respondent competed in, the only one of real consequence is the US Junior Championships & Winter World Cup Qualifier Short Track held on January 6-8, 2024. Respondent pulled out or scratched in the other competitions.
173. Of primary consideration to the Arbitrator in assessing whether Respondent’s results between May 7, 2023, and April 10, 2024, be disqualified is that Respondent tested negative throughout that period of time (tests were conducted on samples collected on May 7, 2023, May 26, 2023, November 13, 2023, January 30, 2024, and February 29, 2024).
174. As explained in *World Athletics v. RAF & Natalya Antyukn*, CAS 2020/O/6759 (2021):

...it is also important not to forget that the primary reason behind this measure (i.e. the disqualification of the sporting results of an athlete that cheated) is not to sanction him or her, but to ensure fair play and equal opportunities for all athletes, annulling those results achieved by those who have acted or is reasonable to believe that have acted dishonestly, vis-a-vis their competitors ....

*Id.* ¶ 90.

175. There is no indication that when Respondent competed during the May 7, 2023, through April 10, 2024, time frame that her ingestion of either BPC-157 or DHEA via the HG Healthgevity supplement aided the Respondent in any of those competitions. There is no evidence that Respondent’s use of BPC-157 or DHEA disadvantaged Respondent’s competitors or that their use by Respondent affected the results of the competitions.
176. In *IAAF v. RUSAF & Nazarova-Klyashtornaya*, CAS 2019/O/6152 (2019) ¶ 84 the arbitral panel stated that one of the factors to be considered in disqualifying results is “the affected sporting results (the athletes being able to establish that results which may be disqualified are not affected such as by evidencing a negative test result during the period).”
177. This issue was also considered in *Downing*. One of the factors taken into account was Downing’s negative test result, as evidence that Downing’s one-time use of a cream that contained testosterone did not benefit or improve her performance at the Lima 2021 Para

World Shooting Competition. Accordingly, Downing's results in that competition were not disqualified.

178. Similarly, the arbitral panel found in *USADA v Blazejack*, AAA No. 01-16-0005-1873 (2017) ¶ 7.13 that Blazejack's negative test was reason not to disqualify his results.
179. Accordingly, the Arbitrator finds that "fairness requires" that Respondent's competitive results, including any award of medals, points, and prizes, from the May 7, 2023, (the date Respondent first declared on her DCF that she was using "HG Healthgevity BPC+PEA 500" and which is the date of the occurrence of her anti-doping rule violation) through April 10, 2024 (the commencement of Respondent's provisional suspension) shall be maintained, and not be disqualified.

## **XI. FINDINGS AND DECISION**

The Arbitrator therefore rules as follows:

- A. Respondent has committed an anti-doping rule violation under Article 2.2 of the World Anti-Doping Code and Article 2.2 of the International Skating Union Anti-Doping Rules for the use of prohibited substances.
- B. Respondent has not sustained her burden of proof under Article 10.6.1 of the World Anti-Doping Code or Article 10.6.1 of the International Skating Anti-Doping Rules that she was not significantly at fault or negligent with regard to her use of BPC-157. Therefore, she does not qualify for a reduction in her period of ineligibility from two years pursuant to Article 10.6.1 of the World Anti-Doping Code or Article 10.6.1 of the International Skating Anti-Skating Doping Rules.
- C. Respondent does qualify for a one-year reduction of her period of ineligibility pursuant to Article 10.7.2 of the World Anti-Doping Code and Article 10.7.2 of the International Skating Anti-Doping Rules. Therefore, Respondent's period of ineligibility is reduced from two years to one year.
- D. The start date of Respondent's period of ineligibility is the date of her provisional suspension, April 10, 2024, as provided for in Articles 10.13 and 10.13.2.1 of the World Anti-Doping Code and Article 10.13.2 of the International Skating Anti-Doping Rules. Respondent's period of ineligibility expires on April 9, 2025.
- E. Respondent's competitive results, including any award of medals, points, and prizes, from May 7, 2023, (the date Respondent first declared on her DCF that she was using HG Healthgevity BPC+PEA 500 and which is the date of the occurrence of her anti-doping rule violation) through April 10, 2024 (the commencement of Respondent's provisional suspension) shall be maintained, and not be disqualified as provided for in Article 10.10 of

the World Anti-Doping Code and Article 10.10 of the International Skating Anti-Doing Rules.

- F. The Parties shall bear their own attorneys' fees and costs associated with this Arbitration.
- G. The administrative fees of NE ADR and the compensation and expenses of the Arbitrator shall be borne by the USOPC.
- H. This Award is in full settlement of all claims submitted in this Arbitration. All claims not expressly granted herein are hereby denied.

Dated: August 20, 2024



Gary L. Johansen, Arbitrator