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FINA Doping Panel 02/18

12 January 2018

Comprised of

Robert Fox	(SUI)	Chairman
Peter Kerr	(AUS)	Member
David Lech	(CAN)	Member

In the proceeding against

The swimmer Matthew Willenbring (“the Athlete”)

Affiliated to USA Swimming Inc. (“USAS”)

Represented by Mr. Howard Jacobs, Legal Counsel

1. THE PARTIES

1.1 The FEDERATION INTERNATIONALE de NATATION (FINA) is the International Federation governing the sport of Aquatics. FINA has established and is carrying out, inter alia, a doping control program, both for in-competition as well as out-of-competition testing.

1.2 The USAS is a member of FINA. USAS is required to recognize and comply with FINA’s anti-doping rules which are set out in the FINA Doping Control Rules (“FINA DC”). The FINA DC is directly applicable and must be followed by Athletes, Athlete Support Personnel, coaches, physicians, team leaders, and club representatives under the jurisdiction of the USAS.

1.3 The Athlete is a member of the USAS and thus is subject to the jurisdiction of the FINA DC. The Athlete is a minor, 17 years of age at the time of the sample collection session.

2. NATURE OF THE CASE

2.1 On August 28, 2017, the Athlete provided a urine sample during an in-competition test conducted after the USAS 4x100 Medley Men's relay team (of which he was a member) swam to a world junior record during the World Junior Swimming Championships at Indianapolis, Indiana. FINA was the testing authority for this sample collection session.

2.2 The Athlete's urine sample was sent to the UCLA Olympic Analytical Laboratory which is a WADA accredited laboratory located in Los Angeles, USA. Both A and B sample analysis were performed. The laboratory eventually confirmed an adverse analytical finding ("AAF") for Hydrochlorothiazide ("HCTZ") – Class S5 Diuretics and Masking Agents on the World Anti-Doping Agency ("WADA") Prohibited List, 2017. HCTZ is a specified substance and its use in sport is banned at all times. As HCTZ is not a threshold substance the precise concentration of HCTZ detected in the Athlete's urine sample was not reported by the laboratory. However, the FINA Doping Control Review Board ("DCRB") promptly advised the FINA Doping Panel that the level of HCTZ detected in the Athlete's sample was extremely low ("about 1/400th of the Minimum Required Performance Limit for Laboratories, as required by WADA").

2.3 By letter dated October 2, 2017, FINA notified the Athlete and USAS regarding the AAF reported in the A Certificate. The Athlete requested that his B sample be analysed. When the B Certificate dated October 9, 2017, confirmed the result in the A Certificate, on October 12, 2017, FINA formally asserted that the Athlete had committed an anti-doping rule violation ("ADRV") involving the Presence of HCTZ. The Athlete voluntarily accepted a provisional suspension on October 19, 2017. Subsequently, FINA provided the Athlete with all appropriate confirmatory documentation.

2.4 By letter dated November 3, 2017, the Athlete requested a hearing before the FINA Doping Panel. The Athlete implicitly admitted the fact of the ADRV and only sought a hearing to determine the proper length of the ineligibility sanction.

3. THE PROCEEDINGS

3.1 By letter dated November 23, 2017, Mr. Robert Fox, Chairman of the FINA Doping Panel, confirmed the composition of the Panel which would conduct the requested hearing on January 12, 2018 in Lausanne, Switzerland.

3.2 On December 20, 2017, the Athlete filed his Defence Brief, witness statements and supporting exhibits.

3.3 After reviewing the materials filed by the Athlete, the Panel sought clarification regarding a number of the scientific issues that were raised. Accordingly, Mr. Robert Fox wrote to the DCRB to ask for comments and clarification regarding these four questions. A summary of the questions posed to the DCRB are set out below:

- Does HCTZ pass through the body quickly or slowly and are there standard clearance times?
- Is it possible to determine the time of ingestion of the HCTZ with reference to the low level of HCTZ detected in the Athlete's urine on August 28, 2017?
- Is the level of HCTZ detected in the hair sample low or high and can such a level be equated with the low level of HCTZ detected in the Athlete's urine on August 28, 2017?
- Is the slightly elevated level of testosterone in the hair sample segment showing a presence of HCTZ relevant?

3.4 The questions sent to the DCRB were shared with the Athlete, as were the DCRB's replies. The DCRB replied, in summary, as follows:

After doses of 25 mg of HCTZ (the amount in the Tribenzor pills the Athlete claimed he ingested) it would be typical to see the levels of HCTZ detected in the Athlete's urine sample after about one week.

A large departure from the typical 5 to 7 day clearance 'window' is possible but a period of 18 days between ingestion and the urine collection on August 28, 2017 would be scientifically difficult to accept given the low level of HCTZ that was detected in the Athlete's urine.

Hair sample analysis for HCTZ gives only a rough estimate (plus/minus one month) regarding when the drug was ingested. The DCRB could not comment on whether 36 pg/mg of HCTZ detected in the third hair sample was a high or a low concentration of HCTZ nor could it comment on the relationship between the level detected in the third hair sample and the level detected in the Athlete's urine.

It was not significant that the third hair sample showed a slightly elevated level of testosterone in the segment in which the HCTZ was also detected. The DCRB stated that the level of testosterone reported in that segment fell in the normal range for males and any variation from the level detected in earlier segments could be explained by normal physiological or analytical variability.

4. JURISDICTION AND APPLICABLE RULES

4.1 The jurisdiction of the FINA Doping Panel arises out of the provisions of the FINA Rules C 22.8, C22.9 and FINA DC 8.1.

4.2 The applicable Rules in this case are the FINA DC in effect since January 1, 2015.

5. MOTIONS AND CONTENTIONS

5.1 The Athlete's legal counsel filed a detailed and very comprehensive Defense Brief. A summary of the Athlete's position and the relief sought by the Athlete is set out below.

5.2 The Athlete has admitted the ADRV. The primary issues to be addressed at the hearing were: (i) how did the HCTZ get into the Athlete's urine sample and how should this issue be evaluated by the Panel due to the Athlete being a minor with no mandatory requirement to prove how the HCTZ entered his body prior to receiving a sanction reduction, (ii) was the Athlete's conduct intentional, (iii) what are the proper consequences of the ADRV considering the Athlete's degree of fault, and (iv) once a sanction is determined, what is the appropriate level of public disclosure due to the Athlete being a minor?

5.3 In the Defence Brief, the Athlete's surprise and consternation regarding the AAF for HCTZ was described. Also stressed was the fact that the Athlete was a minor at the time of the test. As stated in the Introduction:

"Matthew Willenbring accepts that HCTZ was detected in his system, and that is not an issue for this Tribunal. What is at issue in this case is the degree of fault that the tribunal should ascribe to Mr. Willenbring and what the resulting sanction, if any, should be, based on the unique facts and circumstances of this matter.

Since finding out about his positive test, Matthew Willenbring and his family have done everything within their power to determine what could have caused this positive test, because it is clear that Matthew Willenbring did not take HCTZ on purpose. He has tested all the supplements and medications that he could have taken in proximity to the date of the sample collection for possible contamination, and those tests revealed that none of these supplements or medications contained HCTZ. The only possible cause that cannot be eliminated is that he mistakenly took his mother's friend's high blood pressure medication, which contained HCTZ. His mother's friend, Jacqueline Higgins, had been visiting and staying with the family in the 2-3 weeks prior to the 28 August 2017 positive test; and during that time Ms. Higgins and Mr. Willenbring shared a bathroom where Ms. Higgins had a bottle of Aleve anti-inflammatory (naproxen) which also contained her Tribenzor (olmesartan-medoxamilodipine-hydrochlorothiazide).

Based on the foregoing, and as further explained below, it is submitted that Mr. Willenbring's inadvertent ingestion of Ms. Higgins' blood pressure medication was the most likely cause of his positive test. However, because Mr. Willenbring was a minor at the time of his positive test, it must be remembered that he is not required to establish how the HCTZ entered his system in order to establish that he was not significantly at fault or negligent in connection with his positive test. It is submitted that Mr. Willenbring is entitled to a significant reduction in the default sanction of 2 years, pursuant to FINA DC 10.5.1.1."

- 5.4 The Athlete asks the Panel to determine, pursuant to FINA DC 10.2, that he did not act with intention so the default sanction is 2 years (FINA DC 10.2.2). Further, the Athlete claims that he is at "no significant fault or negligence" and thus eligible for a sanction reduction below 2 years of ineligibility based on his degree of fault (FINA DC 10.5.1.1). The Athlete also seeks the benefits accruing to him in the FINA DC as a result of being a minor at all relevant times. The Athlete submits that a sanction with a short period of ineligibility is appropriate in this case.
- 5.5 Prior to the formal commencement of the in-person hearing in Lausanne, when questioned by Mr. Robert Fox, the Athlete's counsel confirmed (i) that the Athlete was satisfied with the Panel's jurisdiction, (ii) there were no concerns regarding bias on the part of the Panel members, (iii) the proposed manner of conducting the hearing was acceptable, and (iv) no outstanding procedural issues remained to be resolved. The Athlete wished to proceed.

6. LEGAL DISCUSSION

A. THE FACTS

The Hair Test Report

- 6.1 The Athlete filed a hair test report (the "Report") dated December 15, 2017, which was prepared by Prof. Pascal Kintz. Prof. Kintz is associated with X-Pertise Consulting, with an office located in Oberhausbergen, France. The Panel is satisfied, after receiving the assurances of the DCRB and examining the qualifications and experience of Prof. Kintz set out in the Report, that Prof. Kintz is a recognized expert in the field of hair analysis.
- 6.2 In summary, the Report prepared by Prof. Kintz confirmed that the following occurred:
- Prof. Kintz received on November 29, 2017, three strands of hair cut from the Athlete on November 28, 2017. Each strand of hair was about 10 cm in length.
 - Each strand was cut into three segments of 2 cm each for analysis (0 to 2 cm; 2 to 4 cm; 4 to 6 cm). The purpose of the analysis was to seek to

identify whether HCTZ and/or anabolic agents were present in each 2 cm segment.

- HCTZ was tested for using liquid chromatography coupled to tandem mass spectrometry using a Waters XEVO TDQ. The laboratory quantification limit was 5pg/mg.
- Anabolic agents were tested for by gas or liquid chromatography coupled to tandem mass spectrometry using a Thermo TSQ 8000 or a Thermo TSQ Quantum. The laboratory has a limit of detection at 1 to 5pg/mg for each compound.
- Based on a typical growth rate of 1 cm per month for human hair, the period corresponding to the AAF (on August 28, 2017 – 3 months before the hair analysis) would be in segment 2 to 4 cm. However, in the case of faster growing hair the corresponding period would be located in the 4 to 6 cm hair segment.
- With regard to HCTZ, in segments 0 to 2 cm and 2 to 4 cm no HCTZ was detected. In the segment 4 to 6 cm 36pg/mg of HCTZ was detected. Prof. Kintz concluded that the Athlete had been exposed to repetitive doses of HCTZ during the past 4 months based on 1 cm per month of hair growth. If the Athlete's hair grew faster than average the covered period would be more recent.
- With regard to the search for various anabolic agents contained in the Athlete's hair, the Report concluded that none were detected in any of the hair segments with the exception of endogenous substances (testosterone; DHEA) which are naturally produced in males. All concentrations of testosterone and DHEA detected were within the normal range of expected physiological production. Prof. Kintz concluded that the Athlete did not abuse anabolic steroids in the last 6 months before the hair was collected.

6.3 At the commencement of the hearing, Prof. Kintz attended by telephone to answer questions from the Athlete's counsel and the Panel concerning the Report he had prepared. The Panel is satisfied that Prof. Kintz answered all questions truthfully and credibly. His evidence assisted the Panel to understand the science and the conclusions contained in the Report.

6.4 Under questioning from the Athlete's counsel, Prof. Kintz confirmed that the science surrounding hair sample analysis for the purpose of detecting HCTZ is in its infancy but that general conclusions can be drawn. He confirmed that hair growth speed is a rough estimate only and that wide variations between individuals are possible. He stated that 90% of the population have hair that grows at 1 cm per month. Some hair grows at 2 cm per month. Accordingly, he conceded that the time period estimates contained in the Report were rough approximations only.

- 6.5 Prof. Kintz acknowledged that if a very low level of HCTZ was ingested a single time (i.e. perhaps in a contamination scenario) it would not likely show up in a hair segment at all. His opinion that the Athlete was exposed to repetitive doses of HCTZ was linked to this point. A not insignificant level of HCTZ must be ingested or it will not show up in hair. However, Prof. Kintz also confirmed that it was impossible to equate the amount ingested to the level detected in hair. Likewise, he confirmed that it was impossible to equate the amount detected in a urine sample collected 3 months previously to the level detected in hair. All that could be said with a high degree of certainty was that the Athlete had not been exposed to exogenous anabolic agents in the past 6 months and had been exposed to HCTZ in the rough time period indicated by the third 2 cm long hair segment.
- 6.6 Prof. Kintz acknowledged that this was the first search for HCTZ in a hair sample that he had performed. It is far more common to search for anabolic agents in hair samples and the science for this is well understood and documented.
- 6.7 Under questioning from the Panel, Prof. Kintz gave his opinion that the level of HCTZ detected in the Athlete's hair (at 36pg/mg) was relatively low. He reported to the Panel his knowledge of academic studies that had demonstrated that ingesting 25 mg of HCTZ could lead to levels detected in hair samples from 20 to 1,050 pg/mg. He confirmed that HCTZ detected in hair does not degrade and disappear over time but is rather fixed in its concentration. Finally, he stated that the Report could not demonstrate in any conclusive way whether the Athlete had acted with intention or inadvertently in association with the ingestion of the HCTZ. All he could conclude with certainty was that the Athlete had been exposed to HCTZ and had not been exposed to exogenous anabolic agents in the previous 6 months.

The Athlete's evidence

- 6.8 The Athlete testified regarding his first swimming experiences in Dallas, his success in the pool as a youth under the age of 10 and his development into an elite swimmer. He explained how at the age of 15 he decided to exclusively pursue swimming instead of basketball. A respected coach at the Austin Swim Club convinced him that he had a great deal of talent and that he should focus exclusively on his swimming. In June of 2016, he attended the U.S. Olympic Trials. It is clear that he loves the sport of swimming and is a talented and determined competitor.
- 6.9 The Athlete described how he received his first anti-doping education at the National Select Camp in January, 2017. The information provided to him covered only the following advice: (i) look into all medications you are using

and check the active ingredients through GlobalDRO or another similar resource; (ii) be wary of using supplements as they can be risky. In addition, he was informed regarding the process and procedures that would be followed if he was selected for testing. This was the sum total of the anti-doping education the Athlete received prior to the test conducted on August 28, 2017. This test was the first (and the only) drug test the Athlete has undergone.

- 6.10 Subsequently, the Athlete was added to the USAS Registered Testing Pool (“RTP”) and has very recently received additional, detailed and more substantive anti-doping educational advice regarding the risks of doping and the myriad dangers to be attentive to. The Athlete is now reporting his whereabouts information daily as a member in the USAS RTP.
- 6.11 The Athlete testified that he is now in his senior year at high school and his immediate goal is to qualify to compete at the Tokyo 2020 Summer Olympic Games. The Athlete has been awarded a swimming scholarship to attend the University of Texas starting in the fall of 2018. This University is perhaps the preeminent American academic institution for training elite level international swimmers. Many recent U.S. Olympians are graduates of the University of Texas.
- 6.12 Despite having received minimal anti-doping education by the summer of 2017, the Athlete claimed that he took great care and was actually quite cautious regarding what went into his body. He admitted that he often took anti-inflammatory medicine for his frequent headaches and muscle soreness and he was well aware that no ingredient in any such medication was banned. His preferred pharmaceutical anti-inflammatory product was Advil. The Advil brand medication was often in his home and he found it most effective to treat his pain. While he most often took one Advil pill, if needed, he would take two pills.
- 6.13 The Athlete knew the two B vitamin supplements he took were clean. He had no concerns in that regard. The Musclepharm Assault supplement that he took was also used by his teammates so this gave him comfort. In addition, the Athlete testified that he had examined the ingredients in the Musclepharm Assault and knew it was an ‘Informed Choice’ product. The Beet Essence supplement was given to the Athlete by his mother who believed in its health properties. This was the total supplementation the Athlete consumed, despite having a very intense training load and consuming about 6,000 to 8,000 calories per day.

- 6.14 The Athlete is not now competing (due to the voluntary provisional suspension he signed) and does not presently take any supplements. As a direct result of the AAF and also because of what he has learned as an RTP member, the Athlete has yet to decide if he will resume taking any supplements when he is again competing. He now fully recognizes the risk they carry. However, he continues to use Advil for his headaches and soreness.
- 6.15 The Athlete testified briefly regarding his illness and diagnosis for ulcerative colitis in May, 2017. He struggled with pain and weight loss prior to discovering what precisely was ailing him. The Athlete's weight went from 193 pounds in the spring of 2017 to 210 pounds when he was tested on August 28, 2017 to 230 pounds at the date of the hearing in early January 2018. The Athlete testified he was never attempting to lose weight during 2017. To the contrary, he was trying to add weight.
- 6.16 The Athlete testified that when he is at home he typically shares an upstairs bathroom with his younger brother. When Ms. Higgins arrived with her family to visit in mid-August, 2017, the Athlete's brother was banished to a downstairs couch and the Higgins' family members all slept in the brother's room and shared the upstairs bathroom with the Athlete. He conceded that the bathroom was typically rather messy and that he just uses it to brush his teeth. After the Higgins' family departed, the Athlete's older brother left home to attend college in North Carolina. The Athlete's mother and his older brother departed the family home, by car, on August 14, 2017.
- 6.17 The Athlete has no recollection of an Aleve bottle suddenly showing up in the upstairs bathroom during the Higgins' visit or appearing there afterwards. However, he clearly recalls that during the week of August 14 to August 20, 2017, after the Higgins' family had departed, and in the week prior to departing for Indianapolis, he several times needed an anti-inflammatory pill to address a bad headache. He wanted to take his normal dose of 2 Advil pills for the headache but he could not locate the family's large Advil container, normally kept downstairs. He searched in vain for it. This caused the Athlete some distress which is why he recalls this fruitless search so vividly.
- 6.18 The Athlete testified that if in his search for Advil he would have discovered an Aleve container on a counter or in a cupboard in his home, as he knew Aleve was a safe anti-inflammatory option, he has no doubt that he would have immediately taken one or two of the Aleve pills to address his headache. The Athlete had used Aleve medication in the past and Aleve medication had previously been in the family home.

- 6.19 The Athlete recalled that he used pain medication about 2 or 3 times during the week of August 14 to August 20, 2017. The Athlete knew that it was not Advil that he consumed. He simply could not locate the family's large Advil container. He cannot recall if he took one or two anti-inflammatory pills on each occasion for his headache. On August 20, 2017 the Athlete departed from the family home to travel to Indianapolis for the World Junior Swimming Championships.
- 6.20 The first time the Athlete heard or knew anything about Ms. Higgins' Aleve bottle containing HCTZ and, specifically, that her Aleve bottle had been in his bathroom in the family home, was in late November, 2017. This was when he and his family were trying to discover the source of the HCTZ in his urine sample. Only then did he reflect on and recall his rather frantic and unsuccessful search for Advil pain medication in the days immediately prior to leaving for the World Junior Swimming Championships.

Ms. Jacqueline Higgins' evidence

- 6.21 Ms. Jacqueline Higgins (Jackie) filed a witness statement dated December 20, 2017. Jackie also attended the hearing to testify and to answer questions from the Athlete's counsel and the Panel. Jackie was excluded from the hearing room prior to giving her evidence. In all aspects, the Panel finds Jackie to be an honest, intelligent and highly credible witness. She clearly and carefully recalled the events that occurred many months ago and tried to the best of her ability to answer the questions put to her by the Athlete's counsel and the Panel. The facts set out below are drawn from Jackie's witness statement and from the totality of the testimony she tendered in person while at the hearing.
- 6.22 Jackie and the Athlete's mother were former work colleagues and have remained close friends. On August 7, 2017, Jackie traveled from her home in West Columbia, Texas to Austin, Texas to visit the Willenbring family and to attend a concert with her daughter and granddaughter. The visit lasted about 4 days and she returned to her home on or about August 10, 2017. None of this is in doubt.
- 6.23 Jackie had been using blood pressure medication for about 10 years. In 2015, she was switched by her doctor to the medication Tribenzor which contains both blood pressure medication and a diuretic (HCTZ). Until well after the AAF was reported, she had told no one in the Willenbring family that she was using blood pressure medications and that her blood pressure medication contained the drug HCTZ.
- 6.24 Jackie's evidence was that when she traveled away from her home she would routinely add roughly the number of blood pressure medication pills

(Tribenzor) that she would require for each trip into a standard Aleve bottle. Jackie also uses Aleve anti-inflammatory medicine regularly for general soreness. Her blood pressure prescription specifies that she must take 1 Tribenzor pill per day but she admitted that she often misses taking her daily blood pressure medication. However, she generally tries to follow her doctor's advice to take one Tribenzor pill per day.

- 6.25 Importantly, she does not count out a single Tribenzor pill for each day she is away from her home - where she keeps the balance of her Tribenzor medication. Instead, she pours roughly the required number of Tribenzor pills into her 'travel' Aleve bottle only ensuring she will have at least enough for the duration of each trip. A ready supply of Aleve is also kept at her home.
- 6.26 Her reasons for doing this are twofold. She does not want to carry the entire Tribenzor prescription with her and she does not want to risk losing all her Tribenzor pills while traveling. As she also uses Aleve pills regularly, this is a convenient and practical solution. In the result, when Jackie travels, she takes with her an Aleve bottle containing both Aleve pills and Tribenzor pills. Jackie takes no other medications and no other medication was in her 'travel' Aleve bottle. Jackie at no time prior to the reported AAF told anyone in the Willenbring family that when she travels she carries her blood pressure medication in an Aleve bottle.
- 6.27 Jackie testified she takes Aleve pills about once or twice a week for general muscle ache and soreness.
- 6.28 Jackie testified that she can identify her pills instantly. Her Aleve pills are marked on the outside with the lettering "ALEVE" and are coated yellow on one side and white on the other. A photograph of a typical Aleve bottle was filed. It contained an image on the label of the Aleve pills contained inside. Jackie stated that the image of the Aleve pill on the Aleve bottle was accurate. The Tribenzor pills are solid yellow in colour and have no external markings. A photograph of a single Tribenzor pill was also filed.
- 6.29 Jackie testified that while she was staying at the Willenbring's, she and her daughter and her granddaughter all shared a bathroom on the upper floor of the home with the Athlete. The Higgins' family members slept in the bedroom of another son. Jackie believes that she would certainly have taken her Aleve bottle to this shared bathroom when she took her Tribenzor pills. She believed she left her toiletry items and her Aleve bottle in the shared bathroom for the 4 day duration of the visit. She would have left the Aleve bottle on the counter in the bathroom with her other toiletries. She does not recall taking her

Tribenzor pill daily while in Austin but she has no recollection of ever being without, or short of, either her Tribenzor or her Aleve while she was in Austin.

- 6.30 When Jackie left Austin on August 10, 2017 she traveled directly back to her home in West Columbia, Texas.
- 6.31 Jackie testified that she has no clear recollection that she left her 'travel' Aleve bottle in Austin. However, she knows that she had it in Austin during her visit between August 7 and August 10, 2017. Importantly, she distinctly recalls not being able to locate the 'travel' Aleve bottle when she was again back in her home and was packing her suitcase for the subsequent trip to Indianapolis, Indiana to watch the Athlete compete at the World Junior Swimming Championships about 10 days later. At that time she gave the missing 'travel' Aleve bottle no further thought as she had ample additional supplies of Aleve in her home and her Tribenzor medication was also in her home. The solution to the lost 'travel' Aleve bottle was to obtain a new Aleve bottle from her home and simply add the rough number of Tribenzor pills she needed for the trip to Indianapolis. This is what she did. She gave it no more thought. She mentioned this to no one.
- 6.32 Jackie did travel to Indianapolis, Indiana and watched the Athlete compete at the World Junior Swimming Championships.
- 6.33 As Jackie does not take the Tribenzor every single day (despite her doctor's advice to do so) she has accumulated an excess supply at her home as she refills her prescription on a regular basis whether her supply of Tribenzor is depleted or not.
- 6.34 The next time Jackie thought about the lost 'travel' Aleve bottle was in late November, 2017 when the Athlete's mother, Connie Willenbring, called Jackie to tell her the Athlete had been tested and had returned an AAF for HCTZ. Jackie was upset by this news. It was then that Jackie mentioned for the first time to Connie Willenbring that Jackie was using blood pressure medication and that her blood pressure medication, Tribenzor, contained HCTZ. Jackie told Connie Willenbring that her Tribenzor pills were in an Aleve bottle that she had with her in Austin and she believed the Aleve bottle may have been left somewhere in the Willenbring residence when she departed for her own home on or about August 10, 2017. Jackie told Connie Willenbring that she had discovered about 10 days later that the 'travel' Aleve bottle she took with her to Austin was missing.
- 6.35 Prior to the reported AAF, the Athlete had no idea that Jackie took medication containing HCTZ. The Athlete had no idea whatsoever that Jackie kept all her

daily blood pressure medication containing HCTZ in an Aleve bottle and that this Aleve bottle was in the shared bathroom, certainly from August 7 to August 10, 2017, and most likely longer.

- 6.36 Jackie testified that in August 2017 she had no idea that the Athlete was subjected to drug testing and she had no idea that it was prohibited for the Athlete to have any HCTZ in his body.
- 6.37 The photograph of an Aleve bottle in the Defense Brief was in all respects identical to the 'travel' Aleve bottle that Jackie took with her to Austin, Texas in August, 2017. However, the location of the actual Aleve bottle she took with her to Austin, Texas is unknown.

Connie Willenbring's evidence

- 6.38 Mrs. Connie Willenbring (Connie) is the Athlete's mother and she filed a witness statement dated December 20, 2017. Connie also attended the hearing to testify and to answer questions from the Athlete's counsel and the Panel. In all aspects, the Panel finds Connie to be an honest, intelligent and highly credible witness. She clearly and carefully recalled the events that occurred and tried to the best of her ability, despite her obvious and understandable concerns regarding her son, to answer the questions put to her by the Athlete's counsel and the Panel. The facts set out below are drawn from Connie's witness statement and from the totality of the testimony she tendered in person while at the hearing.
- 6.39 Connie testified that the Athlete was a very determined competitor whose dream was to swim in the Olympics. When the Athlete was 11 years of age to when he was 14 years of age he was not experiencing great success in the pool – as he was forced to race against bigger and stronger boys - but he never stopped training hard and pushing himself.
- 6.40 Connie testified that she buys all of the medications for the Willenbring family to use and knows intimately all of the medications and the supplements that the Athlete has access to and consumes. The Athlete reviews all medications and supplements he is inclined to consume on either the GlobalDRO or Supplement411 web sites to check the ingredients. He is very cautious in this regard. When possible she buys Informed Choice products as they are certified to be clean. Connie confirmed that the Athlete is not currently using any supplement products.
- 6.41 Connie reviewed in some detail the Athlete's health challenges from previous years and described the various treatment options he pursued through the

spring and summer of 2017. She confirmed the significant weight loss he experienced and the efforts to gain weight back in summer and fall of 2017.

- 6.42 Connie testified that the Athlete uses pain relief medication regularly for his headaches and muscle soreness. These sorts of pain medications are at all times in the family home. The headaches often result from the Athlete being hungry and/or being deficient in calories and the soreness is from intensive training efforts. Connie typically buys Advil brand anti-inflammatory medication in large containers from outlets like Costco. She has in the past bought Tylenol and Aleve but the family all use the Advil brand as a preferred pain medication. The family pain medication is kept in her downstairs bathroom or in the kitchen where it is freely accessible to the Athlete and all other family members.
- 6.43 Connie confirmed that Jackie visited Austin, Texas with her family members between about August 7 and August 10, 2017 and stayed at the Willenbring home. The guests all slept together in the upstairs bedroom of another son. The visitors all shared a bathroom with the Athlete on the upper floor of the home. Connie does not typically go into the upstairs bathroom as it is the domain of her sons and she did not recall being there at all while Jackie visited.
- 6.44 Connie has no recollection ever seeing an Aleve bottle in the upstairs bathroom in mid-August 2017 or afterwards but she doubts that she was in that bathroom during Jackie's visit. She had a minor ankle injury and was less inclined than normal to venture upstairs. However, she does recall noting after Jackie's visit that the upstairs bathroom had been tidied and cleaned—somewhat to her surprise as this was not its typical state.
- 6.45 Connie took her eldest son to college in North Carolina on August 14, 2017. They drove together by car and Connie returned by air to Austin on August 18, 2017. On August 20, 2017 the Athlete departed early to travel to Indianapolis where he was staying with his swim team. Connie and other family members flew to Indianapolis on August 22, 2017 and stayed until August 29, 2017 to watch the entire World Junior Championship event and to see the Athlete compete.
- 6.46 After the Athlete's evening race on August 28, 2017 he was somewhat late to meet the family and reported that he was delayed due to having undergone his first doping control session. The Athlete was calm and was not in the least concerned regarding the experience. This was the Athlete's first drug test. This was the test that resulted in the AAF for HCTZ.

- 6.47 When the AAF for HCTZ was reported on October 2, 2017, Connie had no idea what HCTZ was and had to look it up online. Connie had no idea how HCTZ might have entered the Athlete's urine sample. She knew he had not used a diuretic. Her first thought was that the AAF must have been caused by medication or supplement contamination. Accordingly, for a period of many weeks during the fall of 2017, and at significant cost, the Willenbring family had tested by Korva Labs all of the supplements the Athlete had used and all the medications that were in the family home. This included sourcing Advil that was purchased in Mexico and other medications that the Athlete might have been exposed to. All tests came back negative (and have been produced as exhibits). The family had no idea what to do next.
- 6.48 It was at this point in the search for what had caused the AAF for HCTZ that Connie called Jackie. In a process of elimination she recalled that Jackie had been visiting Austin at about the time of the test on August 28, 2017. This call to Jackie was in late November, 2017. Jackie was distressed and surprised to hear about the AAF affecting the Athlete.
- 6.49 It was on this call in late November, 2017, that Connie learned for the first time that Jackie used the blood pressure medication Tribenzor and that Tribenzor contained HCTZ. Connie learned on this call that while Jackie travels her Tribenzor is kept in an Aleve bottle and that the Aleve bottle had been brought into the Willenbring home and was placed in the washroom that Jackie shared with the Athlete. During this call Jackie told Connie that she thought she may have left the 'travel' Aleve bottle in Austin because she could not locate it a week or so later when she needed it to finish her packing to travel to Indianapolis. As was typical, she wanted to take all of her required medications with her in the 'travel' Aleve bottle.
- 6.50 This phone conversation was what led Connie and the Athlete to believe that the cause of the AAF involving HCTZ was directly related to Jackie's 'travel' Aleve bottle containing Tribenzor that had been in the shared bathroom, and was likely left in the Willenbring home after Jackie departed on or about August 10, 2017.
- 6.51 Connie confirmed that she had no idea Jackie used blood pressure medication containing HCTZ until late November, 2017. She also confirmed that her eldest son had removed the family's large Advil bottle from the family home and took it with him when he packed his possessions to go off to college on August 14, 2017. This 'liberation' of the family's large Advil container from the kitchen or lower bathroom by the elder son was promptly discovered upon Connie's return to Austin, but the significance of the missing Advil container was not apparent until the call with Jackie in late November and further discussions

with the Athlete regarding his need for pain medication and his search for the Advil container in the week between August 14, 2017 and August 20, 2017.

6.52 Connie has never seen or been able to identify the ‘travel’ Aleve bottle that Jackie brought with her to Austin. It was, in Connie’s view, most likely discarded when it was emptied.

6.53 Connie testified that she had in the past purchased Aleve pain medication for the family, the family had all used Aleve pain medication and Aleve bottles had previously been in the family home. All her family members would know that Aleve was an anti-inflammatory pain medication. If an Aleve bottle was in the house the family members would all believe that she had bought it for them to use.

B. THE LAW

6.54 **FINA DC 2.1.1.**

It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. 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 under DC 2.1.

[Comment to DC 2.1.1: An anti-doping rule violation is committed under this Article without regard to an Athlete’s Fault. This rule has been referred to in various CAS decisions as “Strict Liability”. An Athlete’s Fault is taken into consideration in determining the Consequences of this anti-doping rule violation under DC 10. This principle has consistently been upheld by CAS.]

6.55 **FINA DC 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 first violation of DC 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension of sanction pursuant to DC 10.4, 10.5 or 10.6:

DC 10.2.1 The period of Ineligibility shall be four years where:

DC 10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Athlete or other Person can establish that the anti-doping rule violation was not intentional.

DC 10.2.1.2 The anti-doping rule violation involves a Specified Substance and FINA or the Member Federation can establish that the anti-doping rule violation was intentional.

DC 10.2.2 If DC 10.2.1 does not apply, the period of Ineligibility shall be two years.

DC 10.2.3 As used in DC 10.2 and 10.3, the term “intentional” is meant to identify those Athletes who cheat. The term therefore requires that the Athlete or other Person engaged in conduct which he or she 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. An anti-doping 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.

6.56 FINA DC 10.8

Disqualification of Results in Events subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation

In addition to the automatic Disqualification of the results in the Event which produced the positive Sample under DC 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.

[Comment to DC 10.8: Nothing in these Anti-Doping Rules 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.]

6.57 FINA DC Appendix 1: Fault

Fault: Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as disability, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example, 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 his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.

[Comment: The criteria for assessing an Athlete's degree of Fault is the same under all Articles where Fault is to be considered. However, under DC 10.5.2, no reduction of sanction is appropriate unless, when the degree of Fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Athlete or other Person was involved.]

6.58 FINA DC Appendix 1: No Significant Fault or Negligence

No Significant Fault or Negligence: The Athlete or other Person's establishing that his or her 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 Minor, for any violation of DC 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.

[Comment: For Cannabinoids, an Athlete may establish No Significant Fault or Negligence by clearly demonstrating that the context of the Use was unrelated to sport performance.]

6.59 FINA DC 10.5.1.1

Where the anti-doping rule violation involves a Specified Substance, 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 years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.

6.60 FINA DC 14.3.6

Public Disclosure

The mandatory Public Reporting required in DC 14.3.2 shall not be required where the Athlete or other Person who has been found to have committed an anti-doping rule violation is a Minor. Any optional Public Reporting in a case involving a Minor shall be proportionate to the facts and circumstances of the case.

C. SANCTION

6.61 In this case which involves a specified substance banned at all times, where the ADRV involving the presence of HCTZ (Class S5 Diuretics and Masking Agents) is admitted, the primary issue to determine at the hearing is the proper sanction. The sanction for the presence of HCTZ pursuant to FINA DC 10.2 is a four-year period of ineligibility, only if FINA can establish that the ADRV was intentional. To prove intent on the part of the Athlete, FINA must demonstrate pursuant to FINA DC 10.2.3, firstly, as an evidentiary burden, how the HCTZ entered the Athlete's system (so the Athlete's intent is not evaluated in a factual vacuum) and, secondly, that the Athlete knew that he had engaged in conduct that constituted an ADRV or that the Athlete knew there was a risk that his conduct might result in an ADRV and that the Athlete had manifestly disregarded that known risk. If FINA is unable to prove the Athlete acted with intent the default sanction is 2-years (FINA DC 10.2.2), subject to possible further reductions in sanction.

6.62 The drug HCTZ is on the WADA Prohibited List as a diuretic and a masking agent. In general, its use as a diuretic is largely to assist athletes to control weight and its use as a masking agent is to make the detection of certain drugs more difficult through urinary dilution. The Panel is not satisfied that FINA has demonstrated that the Athlete acted intentionally with regard to the presence of HCTZ in his sample. Despite what was claimed by the Athlete in the Defense Brief at paragraph 4.1.1, there is no rebuttable presumption operating in an analysis of the Athlete's intent. Importantly, HCTZ is banned at all time – both in-competition and out-of-competition.

6.63 The Panel can only determine the issue of the Athlete's intent by evaluating the evidence properly before it. No specific evidence regarding the Athlete's subjective knowledge was tendered by FINA. Critically, no evidence was tendered by FINA that would serve to contradict or undermine the explanation offered by the Athlete regarding how the HCTZ likely entered his system. In such a situation, the totality of the relevant evidence that was placed before the Panel must be evaluated to address the question of the Athlete's intent. This evidence includes the following:

- The Athlete gave honest and credible testimony that he never intentionally used HCTZ, that he did not know what HCTZ was and that he had no idea HCTZ was ever present in the family home prior to the AAF. The Panel believes the Athlete's testimony.
- The Athlete's urine was not dilute. Urine that is very dilute can indicate that there may have been attempts made to manipulate the urine with HCTZ or another diuretic to avoid the detection of prohibited substances.
- The concentration of HCTZ detected in the Athlete's urine was very low. The FINA DCRB confirmed this fact. So low, that it would not be effective to either control the athlete's weight or to serve to mask another prohibited substance.
- The Athlete competes in a sport without weight classes. His weight as a swimmer is not critical.
- The Athlete was at all relevant times trying to gain weight – not lose it. The Athlete went from 193 pounds in May, 2017 to 210 pounds in August, 2017 and then to 230 pounds in early January, 2018 when he appeared before the Panel. The Panel's impression is that at almost 6' 11" the Athlete is very tall, rather slim and 'skinny' at 230 pounds. The Athlete would have no reason to use HCTZ to lose weight.
- In the Report there was no evidence of anabolic agents present in the Athlete's hair. Prof. Kintz concluded that the Athlete had not ingested anabolic agents during the preceding 6 months. There would be no reason to use HCTZ to mask the use of steroids.

6.64 For the reasons set out above, the Panel finds that FINA has not demonstrated that the Athlete acted with intent. Accordingly, pursuant to FINA DC 10.2.2 the sanction sits at 2 years. The potential for a further reduction in the sanction is discussed below.

6.65 The Panel accepts the Athlete's contention that because he was a minor at the time of the AAF, there is no mandatory requirement to prove how the HCTZ entered his system to receive a sanction below 2 years based on the Athlete being at "no significant fault or negligence". The Panel was urged to consider the method of sanction calculation from two perspectives: (i) an option 'A', whereby the degree of fault analysis is performed with no proof on a balance of probabilities how the HCTZ entered the Athlete's sample and (ii)

an option 'B' whereby the degree of fault analysis is performed with proof on a balance of probabilities how the HCTZ entered the Athlete's sample. Option 'B' is the normal method for calculating a sanction.

- 6.66 It was submitted that option 'A' merely required some evidence for the Panel to conclude that the AAF was possibly caused (or could be caused) by inadvertent ingestion of a prohibited substance. In such a case (and without proof to the required standard) the Panel could then assess the general actions taken by the Athlete to avoid consuming any prohibited substances. In assessing the Athlete's degree of fault using option 'A', the Panel was invited to consider *inter alia* the factors listed in the Fault definition in the FINA DC. This approach was followed in FIVB v. Ms. X (China) dated 21 August, 2017. While option 'A' is an interesting framework within which to assess a minor's degree of fault where there is no adequate proof regarding how the drug actually entered the minor's body, its practical application is not needed in this case. For the reasons explained below, the Panel is satisfied that the Athlete has demonstrated on a balance of probability how the HCTZ entered his urine sample.
- 6.67 The Panel is satisfied that the Athlete's explanation regarding how the HCTZ most likely entered his system is accurate. To be sure, the evidence does not permit absolute certainty – but that is not the required test. The Panel is satisfied that the Athlete has provided persuasive evidence of the route of administration and also has established the factual circumstances in which the administration occurred, as described in many CAS decisions including IRB v. Keyter (CAS 2006/A/1067) which was referred to the Panel. In short, the Panel is satisfied that it is more likely than not that the HCTZ detected in the Athlete's urine entered the Athlete's system because the Athlete inadvertently ingested one or more of Jackie's Tribenzor pills. The Tribenzor pills were in the 'travel' Aleve bottle that Jackie left in the Athlete's home when her family departed on or about August 10, 2017. The Panel believes the Athlete's inadvertent ingestion of the Tribenzor pills (and thus the HCTZ) took place between August 14 and August 20, 2017.
- 6.68 In support of the Panel's conclusion regarding how the AAF was most likely caused, the Panel is satisfied that these things did not happen:
- The Athlete did not intentionally ingest HCTZ (for the reasons stated previously).
 - The Athlete's supplements were not contaminated with HCTZ. All the Athlete's supplements were tested and none contained HCTZ.
 - No other health products and medicine in the family home contained HCTZ and none were contaminated with HCTZ. Potential products from the family home were tested and none contained HCTZ.
 - The Athlete's sample was not sabotaged nor were there deficiencies in the collection process or the chain of custody.

6.69 The Panel finds the evidence given by the Athlete, by Connie and by Jackie to be highly believable. The evidence each person tendered was honest and sincere. It was not coached or invented. The evidence had the ‘ring of truth’ and, importantly, was largely compatible with how the Panel believes the individuals involved would have acted in each circumstance described. Specifically, the Panel is satisfied that: Jackie took a ‘travel’ Aleve bottle with her to Austin on or about August 7, 2017 and it contained both Aleve pills and her Tribenzor medication; the ‘travel’ Aleve bottle was left behind in Austin when Jackie returned to her home on or about August 10, 2017 and it still contained some of her Tribenzor medication as Jackie did not count out her Tribenzor pills (one per day) to match the length of her trip; the Athlete looked unsuccessfully for the family’s Advil bottle between August 14 and August 20, 2017 to address his headaches; the Athlete never found the family’s Advil bottle but instead found Jackie’s ‘travel’ Aleve bottle in the family home and took pills from this bottle with no further thought. Further, the evidence tendered by the witnesses is consistent with and is corroborated by:

- The window of about one week for the detection of HCTZ in urine offered by the DCRB.
- The rough timing offered by Prof. Kintz in relation to the hair sample analysis.
- The very low concentration detected in the Athlete’s urine on August 28, 2017, roughly 8 days after the Athlete left his home to travel to Indianapolis on August 20, 2017.

6.70 The definition of “no significant fault or negligence” contained in FINA DC and FINA DC 10.5.1.1 demands that the Athlete prove in the totality of the circumstances that his fault or negligence was not significant in relationship to the ADRV to be considered for a sanction reduction below 2 years. As a minor, the Athlete need not prove how the HCTZ entered his body but he has successfully done so. Accepting that the HCTZ entered the Athlete’s body as the Athlete has explained, the Panel is satisfied that the Athlete is not at significant fault or negligent for the ADRV. The athlete ingested HCTZ inadvertently due to an unfortunate mistake. Accordingly, the Athlete may receive a reduced sanction based on his degree of fault. Pursuant to FINA DC 10.5.1.1 the sanction may fall between a warning and 2 years.

6.71 The Panel believes that the case of Cilic v. ITA (CAS 2013/A/3327) provides a useful and accepted framework to evaluate an athlete’s degree of fault. The Panel believes that on an objective basis (and with reference to the various factors set out in Cilic and the circumstances in this case) the Athlete has a light degree of fault. A light degree of fault presumes a sanction length inside a range from a warning up to 8 months of ineligibility. In summary, the reasons for the Panel’s conclusion are as follows:

- The Athlete reviewed the labels of all the products he consumed and he knew what they all contained.

- The Athlete researched all his supplement products using GlobalDRO and Supplement411.
- The Athlete used reliably sourced products from major pharmaceutical companies and certified safe supplement manufacturers. He used products that he knew other athletes were using with no problem.
- The Athlete took relatively few supplement products and exercised, in general, significant caution.

6.72 In the Cilic analysis, once a low, medium or high objective level of fault is determined, the actual sanction length is calculated inside the relevant fault range based on the athlete's subjective fault. With lower subjective fault the sanction is decreased and with higher levels of subjective fault the sanction is increased – all inside the 8 month range when, as here, the Athlete is found to be in a light fault range. The following factors are relevant to the Athlete's subjective fault and tend to reduce the sanction inside the light fault range:

- The Athlete is young, living at home and is still in high school.
- The Athlete is very inexperienced. The World Junior Swimming Championships was his first major international competition and the doping control on August 28, 2017 was his first such session.
- The Athlete had only received minimal anti-doping education on August 28, 2017.
- The Athlete knew that both Advil and Aleve products were safe for him to consume and he had been using Advil (and occasionally Aleve) for a significant period of time.
- The cause of the AAF was due to a careless mistake.
- 6.73 The following factors are relevant to the Athlete's subjective fault and tend to increase the sanction inside the light fault range:
- The Aleve pills and the Tribenzor pills in the 'travel' Aleve bottle were similar but they were not identical. They could, with minimal attention on the part of the Athlete, be differentiated with regard to their colouring, their size and the external markings on the Aleve pills. Some modicum of attention is required before taking medicinal or pain control products. It is not prudent to blindly assume that pills in a bottle are what they seem to be.

6.73 The Athlete was rather blasé regarding exercising a degree of control over the source and supply of the pain medicine he personally did not buy but very regularly consumed. This seems at odds with his rather sensible precautions regarding the supplements he consumed. In fact, Advil and Aleve pain medication contain more potent drugs (with serious potential side effects) than the few supplements the Athlete typically consumed. It appears the Athlete was in the habit of frequently and rather indiscriminately using the pain medication that his family bought. Because he used anti-inflammatory medicine so often for pain control and had done so for a very long time (and knew the ingredients were not prohibited for

him) he ceased focusing on his personal duty of care and dropped his regular caution when using these particular medical products. No doubt his habitual caution was lowered because he implicitly trusted his family to never purchase a product that was not suited for him. As a result, if the Athlete needed pain relief and pain medication was in the family home he would simply quickly take it and would do so without a care, attention or a second thought.

- 6.74 The Panel is satisfied after weighing all the various considerations set out above that it is appropriate to impose the 'standard' sanction for a light degree of fault. This represents a 4 month sanction – exactly mid-range for a light degree of fault. This sanction is also roughly consistent with the various earlier decided cases that the Athlete asked the Panel to review. None of the jurisprudence provided to the Panel was directly on point, and the facts in this case are unique, but the Panel is comforted that its conclusions are 'in line' with many other sanction outcomes when dealing with inadvertent consumption of a specified substance and reflects, as it must, the fact that the Athlete was a minor.
- 6.75 Finally, the Panel believes that in a case involving a minor where: (i) there was inadvertent ingestion of a specified substance due to a careless mistake, (ii) there would be no potential masking or performance enhancing effects accruing to the Athlete due to the low concentration detected, and (iii) the Athlete's degree of fault is determined to be light, there is no need to publically name or identify the Athlete in the public disclosure of the ADRV. This limited public disclosure is permitted pursuant to FINA DC 14.3.6.

7. CONCLUSION

- 7.1 Mr. Matthew Willenbring is found to have committed an ADRV under FINA DC 2.1, presence of a prohibited substance Hydrochlorothiazide in an athlete's sample (Class S5 Diuretics and Masking Agents on the WADA Prohibited List, 2017).
- 7.2 Mr. Matthew Willenbring is sanctioned with a four (4) month ineligibility period in accordance with FINA DC 10.5.1.1. The sanction starts on 19 October 2017, the day his voluntary provisional suspension commenced.
- 7.3 All results obtained by Mr. Matthew Willenbring from 28 August 2017, shall be annulled together with the consequences thereof which shall include the forfeiture of any medals, points, prizes or prize-money achieved during that period.
- 7.4 Pursuant to FINA DC 14.3.6, the FINA Doping Panel decides to not name or identify the Athlete in any public reporting of the ADRV due to his being a minor.
- 7.5 All costs of this case shall be borne by USA Swimming Inc. in accordance with FINA DC 12.3.

- 7.6 Any appeal against this decision may be referred to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland not later than twenty one (21) days after receipt of the complete and reasoned judgement (FINA Rule C 12.11.4 and DC 13).

A handwritten signature in black ink, appearing to be 'R. Fox', written in a cursive style.

FINA Doping Panel Chairman
Robert Fox