

BETWEEN **DRUG FREE SPORT NEW ZEALAND**

 Applicant

AND **DANE BOSWELL**

 Respondent

DECISION OF TRIBUNAL

Dated 12 February 2009

Hearing: 11 February 2009 at Hamilton

Counsel: Paul David for Applicant
 Mark Hammond for Respondent

In attendance: Graeme Steel for Applicant
 Respondent in person

Interested party: Alan Cotter and Luke van Velthooven for Rowing
 New Zealand

Tribunal Members Hon. Barry Paterson QC
 Adrienne Greenwood
 Carol Quirk

Registrar: Brent Ellis

1. Because of the pending New Zealand Rowing Championships, this decision is being released without reasons which will follow next week.
2. Mr Boswell admitted that he had taken the prohibited drug Probenecid. The issue is the appropriate sanction.
3. The Tribunal accepts that although the drug was taken before 1 January 2009, the principles of *lex mitior* can be applied. The sanction can be considered under the provisions of Rule 14.4 of the Sports Anti-Doping Rules 2009.
4. The Tribunal accepts that the Probenecid was prescribed to Mr Boswell by a medical practitioner and Mr Boswell did not take the substance intending to enhance his sports performance or mask the use of a performance enhancing substance.
5. The Tribunal considers that the appropriate sanction for such a violation would normally be a period of three months ineligibility. However, in the circumstances of this case, which will be more particularly detailed in the reasons when issued, the Tribunal imposes a period of ineligibility of two months as and from 11 February 2009.

Dated 12 February 2009



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Hon. Barry Paterson QC
Chairman of Tribunal