

28<sup>th</sup> May 2021

Athlete: Mosito Lehata  
Sport Code: Track and Field (400m or less)

Address: Thetsane Street  
Maseru, Lesotho

Dear Mr. Lehata

**ADVERSE ANALYTICAL FINDING IN RESPECT OF A PROHIBITED SUBSTANCE THAT IS A SPECIFIED SUBSTANCE SAMPLE NUMBER 4529285//TAMPERING OR ATTEMPTED TAMPERING WITH ANY PART OF DOPING CONTROL BY AN ATHLETE**

**Introduction**

1. The South African Institute for Drug-Free Sport (SAIDS) has responsibility and authority in respect of anti-doping measures in South Africa and does so in accordance with the 2021 SAIDS Anti-Doping Rules<sup>1</sup> (ADR) read with the World Anti-Doping Code (WADC) and the Prohibited List<sup>2</sup> which is promulgated by the World Anti-Doping Agency (WADA) from time to time.
2. As you know SAIDS requested you to submit “A” and “B” urine samples during an **in-competition test** on the **27<sup>th</sup> March 2021** for testing in accordance with the ADR and the WADC.
3. These urine samples were submitted to the WADA Accredited **South African Doping Control Laboratory (SADoCoL) in Bloemfontein**, and the Laboratory tested your “A” sample as required by the ADR and the WADC.

<sup>1</sup> The 2021 SAIDS Anti-Doping Rules are provided herewith for ease.

<sup>2</sup> The WADA Prohibited List is available on the SAIDS and WADA websites.

BOARD MEMBERS: JUDGE L. MPATI (CHAIRPERSON), MR. G. ABRAHAMS, DR. H. ADAMS, MR. D. BAYEVER, DR. S. MANJRA, DR. M. PEENZE, DR. M. QOBOSE, MR. M. QUINN, PROF. L. SKAAL, DR. P. ZONDI, MR. K. GALANT (CEO)



4. The analytical report received from the Laboratory confirmed the presence of **Salbutamol (The mean concentration measured is 2.11 micrograms which is greater than the Decision Limit of 1.2 micrograms. The combined standard uncertainty estimated by the Laboratory at the threshold is 0.05 micrograms)** in your “A” sample (sample number **4529285**). This letter constitutes notification of this finding and alerts you to the potential consequences under the ADR and highlights your rights and obligations as a result.
5. SAIDS conducted an internal review of the Adverse Analytical Finding (AAF) and determined that you do not have a Therapeutic Use Exemption for the substance found in your sample (**Salbutamol**) and that there was no apparent departure from either the International Standard for Testing and Investigations (ISTI) or the International Standard for Laboratories (ISL) that could reasonably have caused the AAF.
6. It is not possible for SAIDS to set out in this notice each provision of the ADR (which are provided to you herewith in full for that reason) and it is consequently essential and extremely important that you carefully consider your position in light of this communication and the ADR and that you note and act in accordance with this notification timeously and properly in accordance with the dates set out in this notification.

### **The Adverse Analytical Finding (AAF) and Your Suspension**

7. **Salbutamol** is a Prohibited Substance and its presence in your urine sample constitutes an adverse analytical finding and is a prima facie breach of **Article 2.1 “Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample”** and/or **Article 2.2 “Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method”** of the ADR.
8. **Salbutamol** is a Specified Substance as defined and described in Article 4.2.2 of the ADR read with the Prohibited List and consequently SAIDS is required to

exercise a discretion as to whether to implement an **Optional Provisional Suspension** in accordance with Article 7.4.2 of the ADR.

9. SAIDS however offers you the opportunity to accept a Provisional Suspension voluntarily at this juncture<sup>3</sup> pending the final determination of this matter. You should carefully consider your position on this issue as if you accept a Provisional Suspension, in writing, and comply fully with it, and in the final analysis you are declared to be ineligible for a period you will be credited with the period that you are provisionally suspended for.<sup>4</sup>
10. As per Article 7.4.4 of the ADR you may voluntarily accept a Provisional Suspension within ten (10) days from the report of the “B” sample analysis, alternatively from the date you waive your right to the “B” sample analysis.
11. Should you not accept a Provisional Suspension and then be declared ineligible the commencement date of the period of ineligibility will almost invariably be the date that the hearing process is completed. This is because the ADR and the WADC do not permit credit for periods where an athlete does not participate but has not expressly, and in writing, accepted a voluntary Provisional Suspension.<sup>5</sup>
12. So, this is an important matter for you to consider and take advice on. If you intend seeking a reduction in the period of ineligibility but do not contest the analytical report and/or finding, then it is in all probability it would be in your interest to voluntarily accept a Provisional Suspension and such acceptance must be in writing.

### **Mandatory Consequences**

13. The Mandatory Consequences to be imposed upon you are specified below. They include:

13.1. **Disqualification of Results** – Pursuant to Article 10.10 of the ADR any results that you obtained on 27<sup>th</sup> March 2021 shall be disqualified,

---

<sup>3</sup> Refer to Article 7.4.4 of the ADR, Voluntary Acceptance of Provisional Suspension

<sup>4</sup> See Article 10.13.2 of the ADR

<sup>5</sup> See Article 10.13.2.2 of the ADR

including the forfeiture of any medals, titles, awards, points and appearance and prize monies.

**Period of Ineligibility** – Our records indicate that this is your first anti-doping rule violation. You will be subject to the mandatory period of ineligibility specified in Article 10.6.1.1 for a first offence, which is a period of ineligibility of between a reprimand and two years.

13.2. **Publication** – A mandatory part of each sanction shall include automatic publication as provided in Article 14.3 of the ADR.

### Your Right to Request an Analysis of the “B” Sample

14. You have the right to request that your “B” Sample be analysed by the Laboratory. Should you wish to have your “B” Sample analysed then the process is as follows: -

14.1. The fee in respect of the “B” Sample analysis is **R4500.00 per sample (Four Thousand Five Hundred Rand. This is a provisional amount. The final amount will be provided once you indicate that you wish to proceed with the “B” sample analysis)** and this must be paid prior to the commencement of the “B” Sample analysis. A copy of the deposit slip or other evidence of payment of the fee must accompany your written request to SAIDS that the “B” Sample be analysed.

14.2. You and your representative (if any) have the right to attend the “B” Sample analysis at the SADoCoL in Bloemfontein should you decide to proceed with this request, or you can indicate that you are happy for the Laboratory to proceed without you. The “B” sample analysis will be for your own account.

14.3. You need to inform SAIDS whether you want your “B” sample analysed by **Friday, 4<sup>th</sup> June 2021** upon which a date for the “B” sample analysis will be confirmed and communicated to you (“the date for notification that you wish to have your “B” Sample analysed”).

14.4. Consequently, and for certainty, should you wish to proceed with the analysis of your “B” Sample, you should, before close of business on the

date for notification that you wish to have your “B” Sample analysed do the following: -

- 14.4.1. Request the “B” Sample analysis in writing to SAIDS.
  - 14.4.2. Indicate in writing if you and/or representative (providing the representative’s name) will attend the opening and verification of the “B” Sample or not.
  - 14.4.3. Attach a copy of the deposit slip, evidencing payment of the fee for the “B” Sample analysis.
- 14.5. If SAIDS has not timeously received a written request including the information referred to above by the date for notification that you wish to have your “B” Sample analysed SAIDS will assume that you have irrevocably waived your right to have your “B” Sample analysed.
- 14.6. If this is the case, then SAIDS will rely on the analytical report received from the Laboratory in respect of your “A” Sample as evidence of the Anti-Doping Rule Violation (ADRV) being a breach of Article 2.1 and/or Article 2.2 of the ADR.

### **Laboratory Documentation Package**

15. You have the right to request copies of the “A” and “B” sample laboratory documentation packages for evidence in your hearing. These are available at a cost of **R3000.00 (Three Thousand Rand)** per sample, per compound and per package and will be available within ten (10) working days after receipt of a written request from you.

### **Disputing the ADRV**

16. I would like to draw your attention to the following information:
- 16.1 You can prove through a controlled pharmacokinetic study that the AAF was a consequence of therapeutic dose by inhalation up to the**

maximum dose i.e. 1600 micrograms over 24 hours in divided doses not to exceed 800 micrograms over 12 hours starting from any dose.

16.2 Should you wish to proceed with the above in 16.1, you need to inform SAIDS so that we can provide you with the key guiding principles for a controlled pharmacokinetic study as well as the list of laboratories that provide this type of study.

16.3 All costs related to the pharmacokinetic study will be for your account.

16.4 You need to inform SAIDS by 4<sup>th</sup> June 2021 whether you wish to proceed with this pharmacokinetic study, failing which SAIDS shall proceed with the results management procedure.

17. You have the right to dispute the assertion of an ADRV, and should you elect to do so you must give notice of the dispute in writing within fifteen (15) days of the date of this notice, or, should you have requested that your "B" Sample be analysed, within fifteen (15) days of notification of the result of the "B" Sample analysis (whichever date is the later).

**ALLEGED ANTI-DOPING RULE VIOLATION OF ARTICLE 2.5 TAMPERING or ATTEMPTED TAMPERING WITH ANY PART OF DOPING CONTROL BY AN ATHLETE**

18. In addition to your AAF, it was reported to SAIDS that you had admitted to the SAIDS Doping Control Officer (DCO), Moses Melato on the day of your test (27<sup>th</sup> March 2021) after notification of your selection for testing that you administered or ingested prohibited substance/s and requested the DCO to pass urine on your behalf.
19. This action constitutes *Tampering* which is defined in the SAIDS Rules 2021 as follows:  
***Intentional conduct which subverts the Doping Control process, but which would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents***

***submitted to an Anti-Doping Organization or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organization or hearing body to affect Results Management or the imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.***

20. Please refer to the attached affidavit submitted by the DCO so that you are provided an opportunity to respond to his statement submitted.
21. Should you dispute the assertion of your two ADRVs you are required to set out precisely what it is that you dispute and to provide such information and/or arguments as are relevant to the matter to enable SAIDS to understand the nature of your dispute and so ensure that the appropriate matters are investigated and placed before an Independent Doping Hearing Panel if necessary.
22. Upon receipt of your dispute or explanation SAIDS may, without limitation, request further information and/or documents from you within a set deadline or liaise with third parties in order to assess the validity of the explanation.
23. In terms of Article 8.3.2 of the ADR, should you fail to dispute the ADRV within fifteen (15) days, you will be deemed to have admitted the ADRV, to have waived the right to a hearing and to accept the Consequences that are mandated by the ADR.

### **Making Submissions Regarding Consequences**

24. In terms of Article 8.3.1 of the ADR, you may admit the ADRV at any time and waive your right to a hearing and accept the Consequences proposed by SAIDS and may, if applicable, benefit from a Results Management Agreement under the conditions set out in Article 10.8.
25. Where Article 8.3.1 or 8.3.2 applies, a hearing before the Independent Doping Hearing Panel (IDHP) shall not be required. SAIDS shall issue a written decision

that confirms with Article 9 of the International Standard for Results Management (ISRM).

26. Should you wish to avail yourself of the opportunity to place facts and circumstances before SAIDS on the question of Consequences you should provide SAIDS with written submissions in writing within fifteen (15) days of the date of this notice, or, should you have requested that your "B" Sample be analysed, within fifteen (15) days of notification of the result of the "B" Sample analysis (whichever date is the later).

### **The Hearing Process**

27. If SAIDS is satisfied that you have committed an ADRV, SAIDS shall charge you with the ADRV asserted against you.
28. You are entitled to admit or dispute the ADRV and to place relevant facts and circumstances before the IDHP for a hearing and adjudication, which shall be conducted in accordance with the principles described in Articles 8 and 9 of the ISRM.
29. Should you wish to appear before a Tribunal to present facts and circumstances of relevance then you should do so in writing within the period deadline set out in the charge sheet.
30. SAIDS is entitled to refer the matter to a Tribunal in relation to the Consequences where the facts and circumstances you raise require investigation and oral testimony.

### **Important Additional Information and Notifications: PLEASE TAKE NOTICE THAT-**

31. The ADR and the WADC regulate your rights and obligations as well as those of SAIDS. It is extremely important that you read and understand these documents and/or that you seek and obtain advice should you require it.
32. Anti-Doping provisions are based on the principle of strict liability and your attention is drawn to this fact. If you have any concern regarding the process



that has been followed you must indicate to SAIDS precisely what those concerns are to enable SAIDS to assess and investigate these concerns.

33. Attached to this notice are the following documents: -

33.1. The ADR.

33.2. The International Standard for Results Management.

33.3. A copy of the doping control form.

33.4. A copy of the laboratory report.

33.5. A copy of the affidavit from the DCO.

33.6. A copy of the SAIDS pamphlet inviting you to contact us should you require counselling or advice.

34. Should you require any other relevant documents or information you should forthwith and immediately indicate, in writing, what you require and provide SAIDS with a suitable physical address and/or e-mail address that SAIDS should utilise in providing you with these documents.

#### **Application for Substantial Assistance**

35. In the spirit to combatting and eliminating acts of doping, you are afforded the opportunity to provide information to progress the fight against doping in sport. SAIDS wishes to obtain your cooperation and assistance of athlete's or other persons who are committing ADRVs, to help bring the ADRVs committed by others to light.

36. In terms of Article 10.7.1 of the ADR, SAIDS can suspend a period of Ineligibility imposed where the athlete or other person has provided Substantial Assistance to SAIDS, a criminal authority or professional disciplinary body. This is not an

absolute reduction but a suspension of the period of Ineligibility that can be reinstated under certain conditions.

37. In terms of Article 10.7.1 of the ADR, there is an opportunity for you to benefit from a one-year reduction in your period of ineligibility in terms of Article 10.8.1, where applicable, and/or the opportunity to enter into a Case Resolution Agreement by admitting the ADRV under as per Article 10.8.2.
38. The conditions of the application are as follows:
  - 38.1. The athlete or other person must fully disclose in a signed written statement no later than 20 days after entering into the Case Resolution Agreement all information they possess in relation to the ADRVs.
  - 38.2. The athlete/other person must fully co-operate with the investigation and adjudication of any case related to that information, including testifying at a hearing if requested to do so.
  - 38.3. The information provided must be credible and must comprise an important part of any case which is initiated. For example, if you provide information of another athlete that is known to you to be doping, SAIDS will conduct a test on that Athlete. If the test results are positive for doping on that Athlete, then this would be a partial condition met to your application. This application is subject to WADA approval.

### **Notifications and Public Disclosure**

39. The below mentioned organisations will be informed of this AAF to process the information with regard to the results management of this AAF and may request copies of the case file related to this case after a final decision has been rendered in this matter as per Article 14.2.2 of the ADR:
  - 39.1. Athletics South Africa (ASA).
  - 39.2. The Athletics Integrity Unit (AIU).
  - 39.3. Lesotho Amateur Athletics Association (LAAA)

39.4. Lesotho National Olympic Committee (LNOC)

39.5. World Anti-Doping Agency (WADA).

40. This adverse analytical finding will be made public in the following circumstances:

40.1. If you decide to have your "B" Sample analysed, then after you have received your "B" Sample analysis result.

40.2. If you waive your right to have your "B" Sample analysed and do not respond by close of business on **12<sup>th</sup> June 2021** as communicated, then on **13<sup>th</sup> June 2021**.

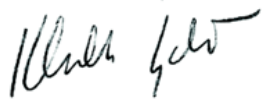
#### **Concluding Remarks**

41. SAIDS is duty bound to act fairness and will treat you with dignity throughout this process, and it is SAIDS intention to ensure that if you require a hearing before a Tribunal, one is conducted as expeditiously and as fairly as possible.

42. To achieve that outcome SAIDS requires that you assist during the process, that you carefully consider the content of this letter, that you take advice immediately if required advice and that you get back to us and inform us within the time periods set out as to the approach you intend to adopt to this matter.

43. **All communications of whatsoever nature, as from the date of this notification should be addressed to our Legal Manager, Wafeekah Begg, e-mail: wafeekah@said.org.za, and to Telephone 021 686 1634.**

Yours Sincerely



**Khalid Galant**  
**CEO**

**CC: Terrence Magogodel**  
**Laura Gallo**  
**Makara Thibinyane**  
**Pulumo Nchakha**  
**Nicola Carroll**

**ASA**  
**AIU**  
**LAAA**  
**LNOC**  
**WADA**

**CONFIDENTIAL**