

**CAS 2019/A/6110 Liam Cameron v. UK Anti-Doping Limited (UKAD)**

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

Sole Arbitrator: Professor Philippe **Sands** QC, Barrister and Professor of Law, London,  
United Kingdom

**in the arbitration between**

**Mr Liam Cameron**, United Kingdom

Represented by Mr Simon Perhar, Barrister, Ely Place Chambers, London, United Kingdom

**- Appellant -**

and

**UK Anti-Doping Limited (UKAD)**, United Kingdom

Represented by Mr Phillip Law, Solicitor, UK Anti-Doping Ltd, London, United Kingdom

**- Respondent -**

## **I. THE PARTIES**

1. Mr Liam Cameron (“**Mr Cameron**” or “**Appellant**”) is a 29-year old professional boxer from Sheffield in the United Kingdom who has fought at middleweight and super middleweight. His first professional fight was in 2009 and he has since fought competitively on at least 26 occasions, including competing for four Commonwealth titles. The Appellant has a record of 21 wins and five losses.
2. UK Anti-Doping Limited (“**UKAD**” or “**Respondent**”) is the United Kingdom’s national anti-doping authority which was created in December 2009. UKAD is a non-departmental public body accountable to Parliament through the Department for Digital, Culture, Media and Sport.

## **II. FACTUAL AND LEGAL BACKGROUND**

3. This Award contains a concise summary of the relevant facts and allegations based on the parties’ written submissions, correspondence and the evidence adduced. Additional facts and allegations found in the parties’ written submissions, correspondence and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has carefully considered all the facts, allegations, legal arguments, correspondence and evidence submitted by the parties and treated as admissible in the present procedure, he refers in this Award only to the matters he considers are necessary to explain his reasoning and conclusions.

### **A. Background facts**

4. On 27 April 2018, the Appellant took part in a professional bout against Nicky Jenman at the IceSheffield Arena, in defence of his Commonwealth (British Empire) Middleweight title (“**the bout**”). The Appellant won the bout by way of a technical knockout.
5. Following the bout, an in-competition urine sample was taken from the Appellant which was split into an ‘A Sample’ and a ‘B Sample’. Both samples were transported to the Drug Control Centre at Kings College in London, which is accredited by the World Anti-Doping Agency (“**WADA**”).
6. An analysis of the A Sample returned an adverse analytical finding (“**AAF**”) for benzoylecgonine (“**BZE**”), which is a metabolite of cocaine.
7. On 25 May 2019, the Appellant was informed that he had been charged by UKAD with an anti-doping rule violation under Article 2.1 of the 2015 edition of the UK Anti-Doping Rules (“**UKADR**”). Pursuant to Article 7.9 of the UKADR, the Appellant was also provisionally suspended from all competitions, events and other activities organised, convened, authorised or recognised by the British Boxing Board of Control (“**BBBoC**”).
8. On 31 August 2018, the Appellant accepted the charge and waived his right to have the B Sample analysed.

9. On 19 December 2018, an independent Anti-Doping Tribunal constituted under Article 8.1 of the UKADR (the “**First Instance Tribunal**”) rendered its decision (“**the Appealed Decision**”), which provides as follows:

“44. *The Tribunal determined that Mr Cameron’s violation under Article 2.1 had been admitted and that it had been established that the A Sample tested positive for a Prohibited Substance, namely benzoylecgonine, a metabolite of cocaine.*

45. *The Tribunal concluded that Mr Cameron will be subject to a period of Ineligibility of four years commencing on 25 May 2018 and concluding at midnight on 24 May 2022 inclusive.*

46. *The Tribunal determined that the period of Ineligibility would start from the date of the Notice of Charge which was the first day that Mr Cameron was suspended from all competitions, events and other activities that are organised, convened, authorised or recognised by the BBBoC.*

47. *There is a right to appeal against this decision as provided for in ADR Article 13.4.”*

#### **B. UK Anti-Doping Rules and the WADA Prohibited List**

10. It is common ground between the parties that the UKADR apply to the case of Mr Cameron. These rules are intended to implement the requirements of the WADA World Anti-Doping Code within the United Kingdom.
11. The Appellant is licensed by the BBBoC, which has adopted the UKADR as its anti-doping rules.
12. Article 2.1.1 of the UKADR, which concerns the presence of prohibited substances, provides as follows:

*“It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his/her body. An Athlete is responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in his/her Sample. 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 Article 2.1; nor is the Athlete’s lack of intent, Fault, negligence or knowledge a valid defence to a charge that an Anti-Doping Rule Violation has been committed under Article 2.1.”*

13. As to the classification of prohibited substances, Article 3.4 of the UKADR provides:

*“The following shall be final and shall not be subject to challenge by any Athlete or other Person based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport:*

- 3.4.1 *WADA’s determination of the Prohibited Substances and Prohibited Methods that will be included on the Prohibited List;*
  - 3.4.2 *WADA’s classification of substances into categories on the Prohibited List (e.g., as a Specified Substance or a non-Specified Substance); and*
  - 3.4.3 *WADA’s classification of a substance as prohibited at all times or In-Competition only.”*
14. By virtue of section S6(a) of WADA’s Prohibited List (edition of 1 January 2018), cocaine is a Non-Specified Stimulant which is only prohibited in-competition.
15. Article 10.2 of the UKADR, governing ineligibility sanctions in relation to prohibited substances, states that:

*“The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete’s or other Person’s first anti-doping offence shall be as follows, subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:*

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

- (a) 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.*
- (b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD 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 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 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.”*

16. Article 8.3.2 of the UKADR, on the rules of evidence and procedure, provides that:

*“Where these Rules place the burden of proof upon the Athlete or other Person charged with the commission of an Anti-Doping Rule Violation to rebut a presumption or establish specified facts or circumstances, then the applicable standard of proof shall be by a balance of probability.”*

17. Article 9.1 of the UKADR, addressing the automatic disqualification of individual results, states that:

*“An Anti-Doping Rule Violation in Individual Sports in connection with or arising out of an In-Competition test automatically leads to Disqualification of the result obtained in the Competition in question, with all resulting Consequences, including forfeiture of any medals, titles, points and prizes.”*

18. Finally, Article 10.11.3(a) of the UKADR, on credit for provisional suspension, provides *inter alia*:

*“Any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Athlete or other Person shall be credited against the total period of Ineligibility to be served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal...”*

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

#### **A. Written proceedings**

19. On 9 January 2019, the Appellant filed his Statement of Appeal with the Court of Arbitration for Sport (“**the CAS**”) against UKAD with respect to the Appealed Decision in accordance with Article R48 of the 2019 edition of the Code of Sports-related Arbitration (“**the Code**”). Together with his Statement of Appeal, the Appellant requested a stay of the sanction imposed by the Appealed Decision in accordance with Article R37 of the Code.
20. The Appellant did not file an Appeal Brief within the time-limit imposed by Article R51 of the Code, despite having been invited to do so by the CAS Court Office on 24 January 2019. By email of 30 January 2019, the Appellant asserted that “*there is no separate appeal brief (...) the statement of appeal is to act as the same*” and that “[*t*]his should have been clear from the documents already couriered”.
21. Thereafter, UKAD objected to the continuation of this procedure. It argued *inter alia* that the requirements of Article R51 of the Code had not been met and that the Appellant had not provided evidence in support of his case. UKAD asserted that, in these circumstances, it was not possible to ascertain the grounds upon which to defend the appeal.

22. Following further discussion between the parties, on 20 February 2019, the Appellant filed additional documents in support of his claim, as well as the documentation already submitted with his Statement of Appeal.
23. By email of 21 February 2019, UKAD confirmed that, having received the Appellant's documentation, it was content for the appeal to proceed. However, UKAD reserved the right to object to the admission of new evidence or additional authorities by the Appellant. UKAD further stated that although the Statement of Appeal made reference to an English employment law case concerning the dismissal of a bus driver, the Appellant had not provided a copy of this authority and UKAD was therefore unable to respond to it. UKAD requested that the time limit to file its Answer, imposed by Article R55 of the Code, is suspended or otherwise does not commence until that legal authority is served in an acceptable form.
24. By letter of 25 February 2019, the CAS Court Office invited the Appellant to comment, by 27 February 2019, on UKAD's request for an extension to file its Answer. The Appellant was notified that the absence of a response would be considered as acceptance of the Respondent's request. The Appellant did not respond to the letter of 25 February 2019.
25. On 8 April 2019, the Appellant filed a copy of English employment law case of *Ball v First Buses Limited* (ET 3201435/2017).
26. Also on 8 April 2019, the CAS Court Office confirmed that the Respondent's deadline to file its Answer, pursuant to Article R55 of the Code, would commence on that date.
27. On 3 May 2019, following a further extension of the applicable time-limit, UKAD filed its Answer in accordance with Article R55 of the Code.
28. On 27 May 2019, the CAS Court Office confirmed the appointment of Professor Philippe Sands QC, Barrister and Professor of Law in London, United Kingdom, as the Sole Arbitrator in this procedure.
29. On 28 June 2019, the Appellant was requested by the Sole Arbitrator to supplement his request for a stay of the sanction imposed by the Appealed Decision (referred to in paragraph 19 above) by way of establishing the requirements for provisional measures under Article R37 of the Code.
30. On 6 July 2019, the Appellant filed written submissions in support of his request for provisional measures.
31. On 19 July 2019, the Respondent filed its response to the Appellant's request for provisional measures.
32. On 14 August 2019, the Sole Arbitrator issued a decision in respect of the Appellant's request for provisional measures, dismissing the request on the basis that the Appellant had failed to demonstrate that the provisional relief sought was necessary to protect him from irreparable harm.

33. On 15 August 2019, the CAS Court Office notified the parties that, pursuant to Article R57 of the Code, the Sole Arbitrator had decided to hold a hearing on 23 October 2019 in London, United Kingdom (“**the hearing**”).
34. By letters dated 16 and 20 August 2019 respectively, the Respondent and the Appellant confirmed their availability (and their representatives) for the hearing.
35. On 21 August 2019, the CAS Court Office, on behalf of the Sole Arbitrator, transmitted to the parties a proposed timetable for the hearing. The parties were invited to communicate any comments on the proposed timetable, and their list of attendees for the hearing, to the CAS Court Office.
36. By letter of 2 October 2019, the CAS Court Office sent the parties an order of procedure.
37. On 9 October 2019, UKAD returned a signed copy of the order of procedure to the CAS Court Office along with its list of attendees for the hearing, and confirmed that it had no comments on the Sole Arbitrator’s proposed timetable for the hearing.
38. By letter of the same date (9 October 2019), the Appellant communicated his list of attendees for the hearing and confirmed that he had no comments on the Sole Arbitrator’s proposed timetable for the hearing.
39. By letter dated 22 October 2019, the Appellant returned a signed copy of the order of procedure to the CAS Court Office.

**B. The hearing**

40. The hearing in this appeal was held on 23 October 2019 in London, United Kingdom. The Appellant was represented by Mr Simon Perhar and accompanied by his trainers, Mr Chris Smedley and Mr Michael White. UKAD was represented by Mr Phillip Law and assisted by Ms Nisha Dutt (UKAD Legal Counsel and Head of Case Management) and Mr James Laing (UKAD Legal Officer).
41. The Sole Arbitrator was assisted at the hearing by Ms Carolin Fischer, Legal Counsel to the CAS, as well as Mr Remi Reichhold, Barrister, London, United Kingdom.
42. The Sole Arbitrator heard opening and closing submissions from representatives for the Appellant and UKAD, and also heard evidence from the Appellant and an expert witness relied upon by UKAD: Professor David Cowan OBE FKC, the former director of the Drug Control Centre at Kings College London.
43. At the close of the hearing, the Sole Arbitrator indicated that his final Award would be communicated to the parties before the end of the calendar year. Both parties confirmed that they had received a fair hearing and had been given the opportunity to fully present their cases.

### **C. Post-hearing correspondence**

44. By letter of 12 December 2019, the Appellant sought clarification as to the date of the Sole Arbitrator’s Award and “*highlighted the inconsistent treatment of UKAD*” in relation to another professional boxer. The Appellant invited UKAD “*to set out and disclose the policy under which decisions to prosecute offences are made*” and requested “*a suspension of the ban pending this delayed decision.*”
45. On 16 December 2019, the CAS Court Office, on behalf of the Sole Arbitrator, invited UKAD to comment on the Appellant’s letter of 12 December 2019.
46. On 17 December 2019, UKAD submitted written observations on the Appellant’s letter of 12 December 2019, stating *inter alia* that: (i) the confidentiality provisions of the UKADR restrict UKAD from commenting on individual cases except and until an anti-doping rule violation is found to have been committed; (ii) the decision in the case of another professional boxer has no bearing on the matter concerning the Appellant; (iii) UKAD acts (and in this case has acted) in accordance with the UK National Anti-Doping Policy, which is a publicly available document; and (iv) the Appellant has not identified the inconsistent treatment that he allegedly suffered.

### **IV. SUBMISSIONS OF THE PARTIES**

47. What follows is a concise summary of the legal arguments advanced by the parties on the issues of jurisdiction, admissibility and the merits. This summary is not exhaustive and contains only those arguments the Sole Arbitrator considers necessary to give context to the decision he reaches in each of the sections below in relation to the jurisdiction of the CAS to hear the case, the admissibility of the appeal and the merits of the dispute. For the avoidance of doubt, the Sole Arbitrator has carefully considered all of the written and oral submissions of the parties, including the exhibits and witness testimony.

#### **A. Jurisdiction and admissibility**

48. It is submitted on behalf of the Appellant that he has the right to appeal the Appealed Decision to the CAS pursuant to Article 13.4 of the UKADR.
49. UKAD accepts that the CAS has jurisdiction to hear this appeal by virtue of Article 13.4.2(a) of the UKADR and that the appeal was filed on a timely basis and is admissible.

#### **B. Merits**

50. The Appellant’s written submissions on the merits, set out in the Statement of Appeal and supplemented at the hearing, may be summarised as follows:
  - a. The burden is on the Appellant to prove, on the balance of probabilities, the route of ingestion of cocaine.



- b. The Appellant: *“inadvertently ingested cocaine whilst handling a large number of banknotes which he counted after having sold tickets for the fight. The tickets were sold in neighbourhoods where drug use is rife. Often the tickets were sold in public houses where people who are likely to want to watch the fight would frequent.”*
- c. Judicial notice can be taken of: (i) the socio-demographic nature of the area where the Appellant comes from; (ii) the greater likelihood of the Appellant coming into contact with cocaine at the establishments he visited for the purpose of selling tickets; and (iii) that it is widely documented that cocaine is present on banknotes.
- d. This is the Appellant’s first anti-doping rule violation and the level of banned substance present in his urine sample was very low. This is *“consistent with the possibility put forward by Mr Cameron who has given a version that he feels is the only possibility for the ingestion given that he has never deliberately taken a banned substance.”*
- e. The scenario accepted by the First Instance Tribunal is not credible. The Appellant knew he would be tested and he would not jeopardise everything he is working towards by taking a small amount of cocaine before the bout. When considering the alternative scenarios, it would be extraordinary that someone in the Appellant’s position would take cocaine intentionally.
- f. The First Instance Tribunal which rendered the Appealed Decision erred in imposing a four-year ban and concluding that the Appellant ingested cocaine intentionally.
- g. The First Instance Tribunal failed to maintain an open mind and was dismissive and disdainful of the points raised by the Appellant at the outset.
- h. The First Instance Tribunal failed:
  - i. *“to add sufficient weight to the evidence and the context within which Mr Cameron gave his explanation”*;
  - ii. *“to understand the social dynamics around the sport of boxing and particularly the social make of the area where this bout took place”*;
  - iii. *“to consider that the use of cocaine within the particular demographic is prevalent”*; and
  - iv. *“to undertake a detailed analysis of the circumstances surrounding the explanation provided”*.
- i. The Appealed Decision is fundamentally flawed in that the First Instance Tribunal did not state whether it accepted UKAD’s submission that only one of the scenarios advanced by Professor Cowan should be considered.
- j. The highest at which UKAD puts its case is that the Appellant’s account of how he ingested the cocaine was *“unlikely”*.

- k. This case encompasses a number of unique features: (i) the low levels of cocaine found in the Appellant’s sample; (ii) the location of the bout where drug use is rife; (iii) the social demographic; (iv) the sport involved; and (v) the method by which the bout is promoted and tickets are sold.
  - l. In relation to the evidence of Professor Cowan:
    - i. He is an expert instructed by UKAD and there was no independent expert evidence before the First Instance Tribunal;
    - ii. The Appellant does not have the means to instruct an expert of his own in these proceedings and he should not be penalised as a result;
    - iii. The First Instance Tribunal heard from Professor Cowan that 92% of banknotes in circulation have cocaine on them and it is possible for cocaine to be ingested through handling banknotes; and
    - iv. Professor Cowan did not dismiss the Appellant’s account and “*could not give a scientific opinion that would be any more than speculation about the plausibility of Mr Cameron’s explanation.*”
  - m. There is a judicial precedent in the United Kingdom concerning inadvertent cocaine ingestion by a bus driver.
  - n. In the alternative, given the low level of BZE in the Appellant’s sample, this case falls within one of the rare situations envisaged under the UKADR where it could be concluded that ingestion was not intentional.
  - o. In the further alternative, the four-year ban is excessive in the circumstances and particularly so when compared to others who used performance enhancing drugs, including steroids. The sanction imposed on the Appellant has placed “*a huge psychological burden on him*” and “*is not only demotivating but causing great stress and anxiety.*”
  - p. The small amount of banned substance found in the Appellant’s urine sample was insufficient to contribute to any performance enhancement.
51. UKAD’s written submissions on the merits, set out in the Answer and supplemented at the hearing, may be summarised as follows:
- a. The dispute between the parties only concerns the issue of sanction.
  - b. The First Instance Tribunal was right to impose a four-year period of ineligibility; it had to do so in accordance with UKADR Article 10.2.1(a).
  - c. When a Non-Specified Stimulant (or one of its metabolites) is found in an athlete’s sample at a prohibited time, the presumption under the UKADR is that the substance was taken intentionally in order to enhance performance.

- d. UKADR Article 10.2.1(a) requires the imposition of a four-year ban “*unless the Participant establishes that the Anti-Doping Rule Violation was not intentional*” in which case the ban is reduced to two years. To meet that burden, Article 10.2.3 of the UKADR requires the Appellant to show that he did not engage in conduct that “*he 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.*”
- e. The CAS has repeatedly ruled that an athlete cannot sustain a claim of lack of intent for the purposes of Articles 10.2.1 and 10.2.3 of the UKADR unless he/she first establishes how the prohibited substance got into his/her system, except perhaps in cases that are wholly exceptional (CAS 2016/A/4377; CAS 2016/A/4563; CAS 2016/A/4676).
- f. In order to get any reduction of the four-year ban, the Appellant would need to satisfy the Sole Arbitrator that it is more likely than not that the BZE got into his sample as a result of handling contaminated banknotes and/or surfaces.
- g. Speculation, unsubstantiated assertions and/or unverified hypotheses are insufficient to discharge an athlete’s burden (CAS 2010/A/2268; CAS 2010/A/2277; CAS 99/A/234; CAS 99/A/235).
- h. An athlete’s testimony, on its own, cannot be given any significant weight because denials of wrongdoing are unfortunately “*the common coin of the guilty as well as of the innocent*” (CAS 99/A/234; CAS 99/A/235; CAS 2014/A/3615).
- i. The jurisprudence is clear that an athlete cannot meet his/her burden simply by denying intentional use and asserting that the source must be contamination (CAS 2010/A/2230; CAS 2016/A/4662). Instead, there is “*a stringent requirement to offer persuasive evidence of how such contamination occurred*”, corroborating the athlete’s claim (CAS 2006/A/1067; *Buttifant v UKAD*, NADP Appeal Panel decision dated 7 March 2016).
- j. Evidence establishing only that it is possible that the athlete’s claim is true is not enough to discharge the burden. The evidence has to be strong enough to show that the claim is more likely than not to be true (*UKAD v Anderson*, NADP decision dated 15 May 2013; *FEI v Camiro*, FEI Tribunal decision dated 22 December 2008; *Drug Free Sport New Zealand v O’Grady*, New Zealand Sports Tribunal decision dated 21 March 2011; *Football Federation of Australia v Hearfield*, Anti-Doping Tribunal decision dated 4 June 2013).
- k. The Appellant does not suggest that his account is anything more than “*credible*” and a “*possibility*”; therefore, even on his own case, the Appellant’s account falls far short of meeting the necessary standard of proof.
- l. The Appellant’s account is not supported by any scientific evidence and he has provided no factual evidence (other than his own statement) as to the extent of cocaine use at the venues he attended. The Appellant has presented no evidence,

and there is no new evidence before the Sole Arbitrator, that brings the Appealed Decision into question.

- m. Following cross-examination, the First Instance Tribunal found the Appellant to be neither convincing nor credible.
- n. In light of the evidence of Professor Cowan, the Appellant’s account is: (i) a speculative and unverified hypothesis; (ii) based only on his own testimony and uncorroborated; and (iii) at its highest, theoretically possible. This comes nowhere close to being more likely than not.

**C. Requests for relief**

52. As to the Appellant’s motions for relief, paragraph 30 of the Statement of Appeal requests the Sole Arbitrator to allow the appeal and overturn the Appealed Decision.

53. UKAD’s requests for relief, set out in paragraph 27 of the Answer, are as follows:

*“27. For all of the foregoing reasons, the Respondent respectfully asks the Sole Arbitrator:*

*27.1 to dismiss in its entirety the instant appeal against the decision of the Independent Tribunal dated 19 December 2018;*

*27.2 in doing so, to confirm:*

*27.2.1 that the Appellant has failed to prove the source of the BZE found in his sample, and/or has failed to prove that his violation was not ‘intentional’ within the meaning of UK ADR Article 10.2.3, and so is required to serve a period of ineligibility of four years pursuant to UK ADR Article 10.2.1(a); and*

*27.2.2 that the result obtained by the Appellant at his fight at which his sample was taken is to be disqualified (with all resulting consequences), pursuant to UK ADR Article 9.1;*

*27.3 in any event, in accordance with UK ADR Article 10.11.3(a), to confirm that the start date of the Appellant’s ban is to be back-dated to 25 May 2018, which is the date the Appellant was provisionally suspended;*

*27.4 to order the Appellant to bear the arbitration costs and to pay a contribution towards the Respondent’s legal fees and other expenses (in accordance with R64.5).”*

**V. JURISDICTION OF THE CAS**

54. The CAS does not have an unfettered right to determine appeals against a decision taken by a tribunal acting under the aegis of a sports federation. Article R47 of the Code provides that:

*“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”*

55. In the absence of a specific arbitration agreement, the CAS’ jurisdiction to hear an appeal must be founded on the statutes or regulations of the sports-related body from whose decision the appeal originates, which must expressly recognise the CAS as an arbitral body of appeal.

56. Article 13.4.2(a) of the UKADR provides that:

*“In a case arising from participation in an International Event or involving an International-Level Athlete, the appeal shall be made exclusively to CAS, following the procedures set out in CAS Code of Sports-related Arbitration and in Article 13.7 of these Rules.”*

57. The Appellant and UKAD both expressly recognise that the CAS has jurisdiction to hear this appeal.

58. On the basis of Article R47 of the Code, Article 13.4.2(a) of the UKADR, and the common position adopted by the parties, the Sole Arbitrator is satisfied, without any doubt, that the CAS has jurisdiction to decide the present dispute.

**VI. ADMISSIBILITY**

59. Article 13.7.1 of the UKADR provides that: “[t]he time to file an appeal to the NADP or to CAS (as applicable) shall be 21 days from the date of receipt of the decision by the appealing party...”.

60. The Appealed Decision was rendered on 19 December 2018.

61. The Appellant’s Statement of Appeal was filed on 9 January 2019.

62. Article R51 of the Code provides that:

*“Within ten days following the expiry of the time limit for the appeal, the Appellant shall file with the CAS Court Office a brief stating the facts and legal arguments giving rise to the appeal, together with all exhibits and specification of other evidence upon which it intends to rely. Alternatively, the Appellant shall inform the CAS Court Office in writing within the same time limit that the statement of appeal*

*shall be considered as the appeal brief. The appeal shall be deemed to have been withdrawn if the Appellant fails to meet such time limit.”*

63. The Appellant did not file an Appeal Brief pursuant to Article R51 of the Code and did not notify the CAS Court Office that his Statement of Appeal should be considered as the Appeal Brief within the time-limit prescribed by Article R51 of the Code. As described in paragraph 22 above, UKAD subsequently waived its objection with respect to the requirements of Article R51 of the Code and filed its Answer on 3 May 2019 in which it expressly accepts that the Appellant’s appeal was filed on a timely basis and is admissible.
64. On the basis of the above, and in the absence of any objection to admissibility, the Sole Arbitrator concludes that the present appeal is admissible.

## **VII. APPLICABLE LAW**

65. Article R58 of the Code provides as follows:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

66. The “*applicable regulations*” in this case are the UKADR, which by virtue of Article 16.1.1 of the UKADR, are governed by the laws of England and Wales.

## **VIII. MERITS**

### **A. Witness and expert evidence**

#### Liam Cameron

Mr Cameron gave oral evidence at the hearing and affirmed the contents of his witness statement produced for the First Instance Tribunal. Mr Cameron said that he had been fighting since he was eight years old and that “*boxing is my life.*” He stated that the bout was an “*unbelievably big fight*” and that it would set him up for bigger things. He described working with a dietician in the run-up to the bout and visiting various public houses in his hometown of Sheffield, some of which he described as “*a disgrace*”. He said that he frequently saw drug wrappers on the floor.

67. Mr Cameron also stated that he counted the banknotes he acquired from ticket sales “*many, many times*” and that these were of a mix of denominations. He said it would be “*absolutely stupid*” to take cocaine a few days before the bout, and asked: “*why would I take that risk?*” He asserted that he “*100% knew*” that there would be a drug test following the bout. In answer to a question from the Sole Arbitrator, the Appellant also asserted that he had never tested positive before.

68. Mr Cameron was cross-examined by Mr Law, on behalf of UKAD. At the outset, Mr Law submitted that he was adopting the cross-examination of Mr Cameron recorded in the transcript of the hearing before the First Instance Tribunal, but would also ask some additional questions of Mr Cameron. In response to additional questions, the Appellant confirmed that he had frequented the same public houses since the bout, but had not taken any photos of drug wrappers or collected any evidence to corroborate his account. He did not think it would be fair to ask any of the public house landlords to provide statements as to drug use in their establishments. Mr Cameron also described the difficult process of “*making weight*” before the bout and feeling lethargic as a result. He denied ever taking cocaine.
69. Mr Law also put it to the Appellant that he had previously tested positive for a metabolite of cocaine on 13 October 2017 (“**the 2017 Sample**”), although on that occasion the positive test did not amount to an anti-doping rule violation because the quantity of BZE did not meet the minimum required performance level to establish an AAF (*i.e.* 50 nanograms per millilitre). Mr Law put it to Mr Cameron that following the 2017 Sample, he had already received a warning by way of a letter dated 28 February 2018 from the BBBoC. In response, Mr Cameron said that he had been naïve.

Professor Cowan

70. Professor David Cowan OBE FKC has considerable experience in the analysis of drugs in body fluids, including the interpretation of results. He also has practical experience in the detection of drugs and their metabolites, and has published findings in this area.
71. For the purposes of the proceedings before the First Instance Tribunal, Professor Cowan produced an expert report dated 16 October 2018, in which he states that:
- a. The Appellant’s sample contained an estimated concentration of 200 nanograms of BZE per millilitre.
  - b. Given this concentration of BZE, the estimated dose of cocaine would be:
    - i. approximately 2 milligrams taken 12 hours before sample collection;
    - ii. approximately 5 to 6 milligrams if consumption had been at about 21:00 on 26 April 2018 (*i.e.* on the evening before the bout, which took place at around 22.30 to 22.45 on 27 April 2018); or
    - iii. approximately 100 milligrams taken two to three days before sample collection.
  - c. Although there is a theoretical possibility that contact with cocaine may occur from contaminated surfaces, an opinion as to the plausibility of the Appellant’s account would be speculation.
  - d. The amount of cocaine recorded as being present on banknotes averages less than 10 micrograms per note (one microgram being 1/1000<sup>th</sup> of a milligram).

- e. A study on US paper currency in 2001 demonstrated that 92% of banknotes were contaminated with cocaine, with an average amount of approximately 29 micrograms per note, and a range of less than one microgram to nearly 1 milligram per note. It is reasonable to assume that UK paper banknotes would have a similar amount of contamination as US banknotes, but newer polymer notes would contain less.
  - f. Banknotes are unlikely to be the source of the cocaine administered by the Appellant because much of the cocaine present on banknotes is captured in the fibres of paper (non-polymer) notes and is not readily transferable to the hand.
  - g. A surface contaminated with cocaine would be a possible scenario for a sufficient quantity of cocaine to give rise to the finding of BZE in the Appellant’s sample; however, the ingestion of milligram amounts of cocaine would be expected to have a local anaesthetic effect and cause numbness to the tongue and/or lips.
  - h. One milligram of cocaine would be visible, but not necessarily noticed.
72. In his oral evidence at the hearing, Professor Cowan stated that his conclusions remained the same as in his expert report of 16 October 2018. He stated that in his opinion there are two possible scenarios for the finding of BZE in the Appellant’s sample: first that within a short time of sample collection a small dose was ingested; second that a larger dose was ingested two or three days before sample collection. Professor Cowan emphasised that he could not speak to the Appellant’s intent. However, the explanation provided by the Appellant is unlikely because the amount of cocaine that could be ingested by contamination, from banknotes or contaminated surfaces, is likely to be very small and not sufficient to give rise to the finding established by the laboratory in this case.
73. During cross-examination by Mr Perhar for the Appellant, Professor Cowan stressed that although 200 nanograms is less than can be seen by the naked eye, it is “*fairly typical in a doping scenario.*” Professor Cowan stated that “*it is possible to touch a surface and get a significant dose, but then there would have had to be a lot on that surface, and in my view that is more likely than not to be visible on that surface.*” When asked about the effects of cocaine, Professor Cowan described a stimulant effect “*often called the flight or fight reflex.*”
74. Upon questions from the Sole Arbitrator, Professor Cowan stated that – taking an average of 10 micrograms per banknote – to reach a dose of 2 milligrams, all of the cocaine from 200 banknotes would need to be ingested within a short period of time. Professor Cowan stated that this is why he considered this scenario to be unlikely. Addressing the Appellant’s account, Professor Cowan stated that:
- “I would put it as improbable, thinking that we know cocaine is detectable in banknotes (many, many, many banknotes) and yet the number of findings of cocaine, adverse analytical findings, is relatively small. Were it to be the case that banknotes were so heavily contaminated, we would have a lot more evidence of cocaine in body fluids, which is not the case.”*



**B. Conclusion on the merits**

75. The issues in this appeal are relatively narrow, and the evidence limited. Mr Cameron accepts that the finding of BZE in his urine sample amounts to an anti-doping rule violation within the terms of Article 2.1 of the UKADR. The only matter to be determined is the sanction.

76. The relevant provision is Article 10.2.1(a) of the UKADR, which provides that:

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

*(a) 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.*

77. It follows that this appeal turns on whether the Appellant’s violation was, or was not, intentional. If the violation was intentional, Article 10.2.1(a) imposes a mandatory four-year period of ineligibility.

78. Conversely, if the Appellant’s violation was *unintentional*, Article 10.2.2 of the UKADR (quoted in paragraph 15 above) reduces the period of ineligibility to two years. Articles 10.4 and 10.5 of the UKADR further provide for the elimination or reduction of the period of ineligibility in circumstances of no fault or negligence, or no significant fault or negligence.

79. The term “*intentional*” for the purposes of Article 10.2.1 is defined in Article 10.2.3 as encompassing conduct which the Appellant “*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.*”

80. The parties agree that Article 10.2.1 imposes a burden of proof on the Appellant to show that the violation was not intentional, and that pursuant to Article 8.3.2, the requisite standard of proof is to the balance of probabilities. In other words, to succeed in this appeal, Mr Cameron has the burden of proving that the finding of BZE in his sample was, more likely than not, unintentional.

81. Before turning to the circumstances of this case, the Sole Arbitrator has considered the relevance (if any) of the 2017 Sample referred to by Mr Law during his cross-examination of Mr Cameron. At the hearing before the First Instance Tribunal, UKAD sought to admit the 2017 Sample into evidence. The First Instance Tribunal ruled that:

*“it would be unfair to do so, given the fact that the 2017 Sample was never formally recorded as an AAF and because Mr Cameron was never able to challenge it. Subsequently the admission of the 2017 Sample results would raise more questions than it could helpfully answer.”*

82. For similar reasons adopted by the First Instance Tribunal, and additionally on the basis that there has been no documentary evidence relating to the 2017 Sample adduced by the parties in these proceedings, the Sole Arbitrator has taken no account of the 2017

Sample in coming to a decision on the merits of this appeal. However, for the reasons explained in paragraph 107b below, the Sole Arbitrator has taken into the account the warning letter sent to the Appellant by the BBBoC on 28 February 2018.

83. The question at the heart of this appeal is whether the Appellant’s account – which faces the real difficulty of being largely unsupported by corroborating evidence – is sufficient to discharge his burden to prove that the ingestion of cocaine was, more likely than not, unintentional.
84. Counsel for the Appellant, Mr Perhar, relies primarily on four authorities in support of the Appellant’s account. First is the case of *UKAD v Buttifant* (SR/NADP/508/2016), paragraphs 28 and 29 of which provide that:

*“28. (...) There is no express requirement for an athlete to prove the means of ingestion but there is an evidential burden to explain how the violation occurred. If the athlete puts forward a credible explanation then the tribunal will focus on that conduct and determine on the balance of probabilities whether the athlete has proved the cause of the violation and that he did not act intentionally.*

*29. There may be wholly exceptional cases in which the precise cause of the violation is not established but there is objective evidence which allows the tribunal to conclude that, however it occurred, the violation was neither committed knowingly nor in manifest disregard of the risk of violation. In such a case the conduct under examination is all the conduct which might have caused or permitted the violation to occur. These rare cases must be judged on the facts when they arise.”*

85. Mr Perhar submits that the present appeal is one of those “wholly exceptional cases” referred to in paragraph 29 of *Buttifant*.
86. The second case relied upon by the Appellant is *Errani v ITF* (CAS 2017/A/5301), which provides at paragraphs 57 and 58 that:

*“57. With regard to the standard of proof, i.e. that the Athlete has to establish, by a balance of probability, how the substance entered her body, it was submitted on behalf of the Athlete that the CAS had recognized two different approaches. The first method which, according to the Athlete, was applied by the IT, requires that the explanation offered by an athlete ‘is more likely to be correct than not, by providing specific, objective and persuasive evidence not only of the route of administration of the substance (e.g. oral ingestion) but also of the factual circumstances in which the administration occurred.’ According to this this [sic] approach no alternative explanations had to be offered and compared.*

*58. For the second approach reference was made to the Contador decision (CAS 2011/A/2384). According to that decision, when the meat that was allegedly contaminated is no longer available for inspection and, therefore, the direct proof that the meat was contaminated is not possible, an athlete can discharge his/her burden of proof by establishing (1) that the contamination was possible and (2) that other sources from which the substance may have entered the body do not exist*

*or are less likely. In this particular situation the party which contests the explanation offered must substantiate alternative routes through which the substance could have entered the body. Under these circumstances, it was submitted, the panel had to examine (1) whether the ingestion of contaminated meat was possible and (2) which of the various alternative scenarios is more likely to have occurred.”*

87. Third, the Appellant relies on the following passage of the Award of the FISA Executive Committee in the case of *Ulf Lienhard* (7 March 2004):

*“In any case, skin contamination is only a possible but theoretical source of a positive result unless the athlete has demonstrated that he was in the certain specific conditions where skin absorption may happen. In the present case, Ulf Lienhard did not even claim that he had been extensively handling US banknotes nor that he had been dealing with people connected with cocaine or doing business in a region where there was a high level of drug use. If skin contamination through banknotes could happen easily under normal circumstances, all the athletes having used American dollar banknotes would test positive. This is obviously not the case and the mere possibility of skin contamination through banknotes is not sufficient to rebut the presumption of guilt, which lies on Ulf Lienhard. Because he has the burden of proof, the athlete must provide additional elements to convince the Executive Committee of FISA that he had been in the certain specific conditions which made it possible for cocaine to have entered his body through skin contamination.”*

88. Fourth, and finally, Mr Perhar relies on the English employment law decision of *Ball v First Buses Limited* (ET 3201435/2017) referred to in the Statement of Appeal. In that case, a bus driver was dismissed by his employer for misconduct following a positive test for cocaine. The bus driver argued that: (i) the random drug test had been carried out in a haphazard way; (ii) he worked a busy shift prior to the drug test during which he picked up a lot of students and handled a lot of banknotes; (iii) he is diabetic and checks his blood sugar level every two hours following which he constantly licks his fingers to stop the bleeding; (iv) the banknotes he handled must have contained traces of cocaine; (v) he undertook two private hair follicle tests covering the period of 216 days prior to the date of the collection of sample, both of which tested negative; and (vi) his employer refused to consider the results of the hair follicle tests. The Employment Tribunal ruled that the bus driver had been unfairly dismissed, partly on the basis that the chairman of the disciplinary hearing had “*closed his mind on this issue; he was committed to one outcome only and that was to find the [bus driver] guilty.*” The Employment Tribunal concluded that the employer’s decision to dismiss the bus driver was outside the band of reasonable responses, particularly bearing in mind: “*indicators of the claimant’s good character, age, health, etc; the possibility of cross contamination; the possibility of mislabelling the sample; the 2 negative hair follicle tests; and the claimant’s offer to we [sic] take any drug test*”.
89. In the view of the Sole Arbitrator, none of these authorities materially assist the Appellant.

- a. The case of *Buttifant* makes clear that even in “*wholly exceptional cases*” where “*the precise cause of the violation is not established*” there is still need for “*objective evidence*” to allow the tribunal to conclude that the violation was unintentional.
  - b. Likewise, in *Errani v ITF*, the tribunal ruled that “*the party which contests the explanation offered must substantiate alternative routes through which the substance could have entered the body.*”
  - c. In *Lienhard* it was held that “*the mere possibility of skin contamination through banknotes is not sufficient*” and that the athlete “*must provide additional elements.*”
  - d. Even in the case of *Ball v First Buses Limited* (and putting to one side arguments as to the applicability and relevance of an English employment law decision to the present dispute), additional scientific evidence was produced to support the driver’s account, and the essence of the decision was the finding of fact that the employer had closed its mind to alternative scenarios.
90. These authorities are not helpful to the Appellant. There is patently no “*objective evidence*” and no “*additional elements*” to support Mr Cameron’s assertion that he unintentionally ingested cocaine by way of contamination from banknotes and surfaces in public houses. The Appellant has not adduced any evidence – of a scientific nature or otherwise – to corroborate his account.
  91. It was submitted on behalf of Mr Cameron at the hearing, and emphasised during the course of his oral testimony, that the Appellant does not have the financial means to obtain expert evidence of his own, including hair follicle testing. Mr Cameron stated he had been quoted £1,200 to test each strand of hair, and that at least two or three strands would be required.
  92. Mr Law, on behalf of UKAD, submitted that the Appellant had not approached UKAD to enquire whether it would pay, or make a contribution towards, additional drug testing.
  93. The Sole Arbitrator is acutely aware of the difficult financial circumstances of the Appellant and has carefully considered the potential adverse impact this could have had on his ability to obtain and adduce corroborative evidence to discharge his burden of proof as required by Article 10.2.1(a) of the UKADR. On careful reflection, the Sole Arbitrator is not convinced that the Appellant’s impecuniosity has precluded him from obtaining further evidence. For instance, there was nothing to prevent Mr Cameron, or his counsel, from seeking publicly available material to support the Appellant’s argument as to the socio-demographic nature of the area where he sold tickets, and in particular, on the prevalence of drug use in that area. The Appellant stated that he frequently saw evidence of drug use at the public houses he frequented, and that despite returning to those venues since the bout, he has seemingly not sought to obtain any photographs, statements or evidence of any other sort in support of his arguments. The Sole Arbitrator also notes that the Appellant was granted legal aid for these proceedings.

94. At the hearing the Sole Arbitrator was invited on behalf of the Appellant to take “*judicial notice*” of certain things: (i) the socio-demographic nature of the area where the Appellant sold tickets for the bout; (ii) the greater likelihood of the Appellant coming into contact with cocaine at the establishments where he sold tickets; and (iii) that it is widely documented that cocaine is present on banknotes. However, these are all matters which could, and should, be proved by evidence, not by way of submission by counsel and the Sole Arbitrator was not provided with any such evidence.
95. [...].
96. [...].
97. At the hearing, the Sole Arbitrator expressed concern that despite Mr Cameron facing criticism before the First Instance Tribunal on 6 December 2018 in relation to his lack of evidence, no further steps appear to have been taken since that time to gather evidence. The Appellant’s written case, insofar as what was filed on his behalf on 9 January 2019, is limited to an eight-page Statement of Appeal, attached to which was a copy of the Appealed Decision and a *Daily Telegraph* newspaper article concerning the dismissed bus driver. Virtually all of the documentary evidence in this case was submitted by the Respondent, namely (i) Mr Cameron’s witness statement and (ii) Professor Cowan’s expert report, both produced for the First Instance Tribunal; (iii) a transcript of the hearing before the First Instance Tribunal; and (iv) a handwritten note provided by the Appellant’s trainer at the hearing before the First Instance Tribunal on 6 December 2018 (“**the Handwritten Note**”).
98. Turning to the evidence in this case, including the oral testimony at the hearing, Mr Cameron’s account is that he frequented various public houses and other venues in the weeks running up to the bout for the purpose of selling tickets. He asserts that cocaine use in these establishments is prevalent and that:
- “I estimate that I handled between £7,000 and £10,000 of banknotes of all denominations in the weeks leading up to the fight. This would have amounted to many hundreds of bank notes. In the week before the fight I was handling notes at least ten times a day, if not more. I would also estimate that I was either handling [banknotes] or touching surfaces in places where I was selling tickets for between thirty and forty-five minutes each day in the eight weeks before the fight. I needed to count the money I handled, and I remember that I quite often licked my fingers to flick through the notes while counting. I should also add that I have a habit of biting my fingernails and do this frequently.”*
99. As to contamination by way of banknotes, the Handwritten Note (which appears to be a receipt relating to the bout) indicates that the Appellant “*handed in*” £6,130. This is somewhat less than the Appellant estimated in his oral testimony before the First Instance Tribunal. It is not possible to know how many banknotes this represents. The Appellant states that he had banknotes of “*all denominations*”, from £5 to £50. The Sole Arbitrator can only conclude that the Appellant was in possession of somewhere between 124 and 1,226 banknotes. These figures are calculated on the basis of two scenarios at opposing ends of the scale:

- a. £6,130 made up of 122 £50 notes, one £10 note and one £20 note; or
  - b. £6,130 made up of 1,226 £5 notes.
100. Professor Cowan’s evidence – which the Sole Arbitrator considers is highly persuasive – is that banknotes contain an average of between 10 and 29 micrograms of cocaine. Adopting the lower estimate suggested by Professor Cowan (10 micrograms), the Appellant would have needed to ingest, within a short period of time, all of the cocaine to be found on 200 banknotes in order to reach a dose of 2 milligrams at 12 hours before sample collection. To reach a dose of 5 to 6 milligram at approximately 21:00 on the evening before the bout, all of the cocaine present on 500 to 600 banknotes would have needed to be ingested, again within a short period of time.
  101. Even adopting the higher average figure from the US study described by Professor Cowan (29 micrograms), the Appellant would have needed to ingest, again within a short period time, all of the cocaine on 69 banknotes to reach a dose of 2 milligrams at 12 hours before sample collection. To reach the 5 to 6 milligram dose at 21:00 on the evening before the bout, this would have required all of the cocaine on 172 to 206 banknotes to be ingested within a short period of time.
  102. There is no evidence before the Sole Arbitrator to support a finding that banknotes in Sheffield contain a higher than average amount of cocaine in comparison to banknotes in other parts of the United Kingdom or elsewhere. Likewise, there is no evidential basis in the record upon which the Sole Arbitrator can find that surfaces in public houses in Sheffield are more likely to be contaminated with cocaine.
  103. When considering the scientific evidence, the Sole Arbitrator is mindful that according to Professor Cowan: (i) polymer £5 and £10 notes, which have been in circulation in the UK since 2016 and 2017 respectively, “*would contain less*” cocaine than on the fibres of paper £20 and £50 notes; and (ii) much of the cocaine present on paper banknotes is captured in the fibres and is not readily transferable to the hand. Moreover, on the basis of the Appellant’s evidence that he was repeatedly counting the banknotes in the weeks prior to the bout, it is difficult to see how or why he could have been exposed to all (or most) of the cocaine on a large number of banknotes within a short period of time in the hours before the bout.
  104. On the basis of the authoritative evidence of Professor Cowan, which stands largely unchallenged, the Sole Arbitrator determines that it is unlikely that banknotes could have been the source of the cocaine which found its way into the Appellant.
  105. As to the second potential source identified by the Appellant, namely contaminated surfaces in public houses, there is no evidence before this Tribunal that the Appellant visited a public house in the days and hours leading up to the bout. To the contrary, the Appellant described in detail the considerable efforts he went to in the week leading up to the bout to “*make weight*”.
  106. Professor Cowan’s evidence is that the ingestion of milligram amounts of cocaine would be expected to have a local anaesthetic effect and cause numbness to the tongue and/or lips. The Appellant has not stated that he experienced any of these effects. It

follows that the Sole Arbitrator is satisfied that it is unlikely that contaminated surfaces at public houses could have been the cause of the Appellant's AAF.

107. Two further matters fall to be considered:
  - a. First, the Sole Arbitrator has considered whether this case falls within the scope of *Ademi v UEFA* (CAS 2016/A/4676) where the panel envisaged “*the theoretical possibility that it might be persuaded by a Player's simple assertion of his innocence of intent when considering not only his demeanour, but also his character and history, even if such a situation may inevitably be extremely rare.*” However, in this case, the Appellant's demeanour, character and history are neutral, and not as such to counter the clear and persuasive scientific evidence of Professor Cowan.
  - b. Second, while the Sole Arbitrator has not taken into account the 2017 Sample in coming to his decision, the fact remains that on 28 February 2018 the BBBoC sent the Appellant a letter notifying him of a sub-threshold BZE finding. Following this warning letter, one might expect that the Appellant – who maintains that he has never knowingly taken cocaine – would have exercised even more caution, particularly if he found himself in environments where, according to him, drug use is commonplace. The Sole Arbitrator notes that by virtue of Article 10.2.3 of the UKADR, the term “*intentional*” encompasses circumstances where an athlete is aware of a “*significant risk*” and “*manifestly disregards that risk.*”
108. It follows from all of the above that the Appellant has not discharged his burden to prove, on the balance of probabilities, that the anti-doping rule violation resulting from the BZE found in his sample was unintentional. As a result, the Appellant's appeal against the Appealed Decision must be dismissed and the four-year period of ineligibility is maintained. In accordance with Article 10.11.3(a) of the UKADR, the Appellant's period of ineligibility is back-dated to 25 May 2018, which is the date the Appellant was provisionally suspended, and will continue to run until midnight on 24 May 2022.
109. Moreover, pursuant to Article 9.1 of the UKADR, the result obtained by the Appellant at the bout is disqualified, with all resulting consequences including forfeiture of any medals, titles, points and prizes.
110. By way of final observation, the Sole Arbitrator acknowledges that the application of Article 10.2.1 of the UKADR, which imposes a mandatory four-year ban, appears to be harsh, particularly where the presence of the non-Specified Substance in question may not have been such as to enhance in any way the performance of the Appellant at the bout. Nevertheless, the rules enshrined in the UKADR are for the benefit of all boxers and other athletes falling within its scope, and they must be applied uniformly and without fear or favour. It will be for UKAD and WADA to reflect on the necessity or utility of the rules, which allows an adjudicator no flexibility in approach.

## IX. COSTS

111. The Sole Arbitrator has considered the provisions of Article R64 of the Code. Article R64.4 provides that:

*“At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include:*

- the CAS Court Office fee,*
- the administrative costs of the CAS calculated in accordance with the CAS scale,*
- the costs and fees of the arbitrators,*
- the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale,*
- a contribution towards the expenses of the CAS, and*
- the costs of witnesses, experts and interpreters.*

*The final account of the arbitration costs may either be included in the award or communicated separately to the parties. The advance of costs already paid by the parties are not reimbursed by the CAS with the exception of the portion which exceeds the total amount of the arbitration costs.”*

112. Article R64.5 of the Code states that:

*“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.”*

113. As noted, in deciding on arbitration costs and legal fees, the Sole Arbitrator must take into consideration (i) the complexity and outcome of the proceedings; (ii) the conduct of the parties; and (iii) the financial resources of the parties. As a general rule, the prevailing party is awarded a contribution toward its legal fees and other expenses incurred in connection with the proceedings.
114. At the close of the hearing, and following the Appellant giving evidence as to his financial means, UKAD invited the Sole Arbitrator to disregard paragraph 27.4 of the Answer (quoted at paragraph 53 above) by which it seeks an order that the Appellant pay a contribution toward UKAD’s legal fees and other expenses, and bear the costs of the arbitration.
115. After considering all of the factors set out above, and in particular bearing in mind the Appellant’s currently limited financial means, the stringency of Article 10.2.1 of the UKADR, and UKAD’s submission at the close of the oral hearing in relation to costs, the Sole Arbitrator rules that:



- a. The costs of this arbitration, including the provisional measures phase, to be determined and served on the parties by the CAS Court Office, shall be borne equally by UKAD and the Appellant.
- b. Each party shall bear its own costs and other expenses incurred in connection with these proceedings.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed by Liam Cameron against the decision of 19 December 2018 rendered by the Anti-Doping Tribunal constituted under Article 8.1 of the UK Anti-Doping Rules, is dismissed.
2. The decision of 19 December 2018 rendered by the Anti-Doping Tribunal constituted under Article 8.1 UKADR is confirmed.
3. The costs of this arbitration, to be determined and served on the parties by the CAS Court Office, shall be borne by the parties in equal proportions.
4. Each party shall bear its own costs and other expenses incurred in connection with this arbitration.
5. All further requests for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland  
Lausanne, 30 December 2019

### **THE COURT OF ARBITRATION FOR SPORT**

Professor Philippe Sands QC  
Sole Arbitrator