

**In the matter of the Canadian Anti-Doping Program;**

**And in the matter of an anti-doping rule violation by Maria Htee asserted by the Canadian Centre for Ethics in Sport;**

**File Outcome Summary**

**Summary**

1. In order to facilitate Out-of-Competition Testing, the CCES is required to maintain a Registered Testing Pool (RTP). Athletes in the CCES's RTP have an obligation to make quarterly whereabouts submissions which outline their regular activities and provide a 60-minute period each day when the Athlete guarantees they will be available for Testing. Should an RTP athlete fail to file their whereabouts information, fail to keep the information up to date, or fail to be available during their identified 60-minute period, they are at risk of receiving a Whereabouts Failure. Any combination of three (3) Whereabouts Failures within a rolling twelve (12) month period by an RTP athlete may result in an anti-doping rule violation (ADRV).
2. Ms. Maria Htee ("the Athlete") has been a member of the CCES's RTP since April 2021 and was informed of her obligations as an RTP Athlete to file quarterly whereabouts information and that she must be available for Testing during her identified 60-minute time period each day. Between September 2021 and September 2022, the CCES recorded two (2) Missed Tests and one (1) Filing Failure against the Athlete. As the Athlete accumulated three (3) Whereabouts Failures in a twelve (12) month period, the CCES asserted an ADRV pursuant to CADP Rule 2.4 (Whereabouts Failures by an Athlete) against the Athlete.
3. Following receipt of the CCES's Notice of Charge, the Athlete waived her right to a hearing, admitted the violation and accepted the proposed period of Ineligibility and all other applicable Consequences by signing an Agreement on Consequences.

**Jurisdiction**

4. The CCES is an independent not-for-profit organization incorporated under the federal laws of Canada that promotes ethical conduct in all aspects of sport in Canada. The CCES also maintains and implements the Canadian Anti-Doping Program (CADP), including providing anti-doping services to national Sport Organizations and their members.
5. As Canada's National Anti-Doping Organization, the CCES is in compliance with the World Anti-Doping Code ("the Code") and its mandatory International Standards. The CCES has implemented the Code and the International Standards through the CADP, the domestic rules which govern this proceeding. The purpose of the Code and of the CADP is to protect the rights of athletes to fair competition.
6. The Athlete is a member of and participates in the activities of the Canadian Powerlifting Union (CPU). According to CADP Rule 1.3, the CADP provisions apply to all members of, and Participants in activities of Sport Organizations adopting it. The CADP was issued for adoption by Canadian Sport Organizations on October 26, 2020, to be operational on January 1, 2021. CPU adopted the CADP on October 29, 2020. Therefore, as a Participant in CPU activities, the Athlete is subject to the CADP.

## Whereabouts Failures

7. During the period between September 2021 and September 2022, the CCES recorded three (3) Whereabouts Failures against the Athlete, which can be summarized as follows:
8. **1<sup>st</sup> Whereabouts Failure (Missed Test) – September 28, 2021**

On October 12, 2021, the CCES issued an apparent Missed Test letter to the Athlete, indicating that she was facing a potential Whereabouts Failure for not being available and accessible for Doping Control during her 60-minute time slot on September 28, 2021. Based on the Athlete's response, the CCES issued an alleged Missed Test letter, in which the Athlete was notified of her right to request an administrative review. The Athlete did not request an administrative review and the CCES recorded a first Whereabouts Failure (Missed Test) against the Athlete.
9. **2<sup>nd</sup> Whereabouts Failure (Mid-Quarter Filing Failure) – November 28, 2021**

On December 9, 2021, the CCES issued an apparent Filing Failure letter to the Athlete, indicating that she was facing a potential second Whereabouts Failure for failing to update her whereabouts information on November 28, 2021. The Athlete subsequently provided a response to the CCES explaining why her whereabouts information was not accurate. Based on the Athlete's response, the CCES issued an alleged Filing Failure letter, in which the Athlete was notified of her right to request an administrative review. On December 20, 2021, the Athlete requested an administrative review, which was conducted by a person not previously involved in the assessment of the apparent Filing Failure and in accordance with the International Standard for Results Management (ISRM).

On February 2, 2022, the CCES notified the Athlete of the administrative review decision which confirmed a Whereabouts Failure (Filing Failure) against the Athlete.
10. **3<sup>rd</sup> Whereabouts Failure (Missed Test) – September 1, 2022**

On September 14, 2022, the CCES issued an apparent Missed Test letter to the Athlete, indicating that she was facing a potential third Whereabouts Failure for not being available and accessible for Doping Control during her 60-minute time slot on September 1, 2022. Based on the Athlete's response, the CCES issued an alleged Missed Test letter, in which the Athlete was notified of her right to request an administrative review. On November 7, 2022, the Athlete submitted all documentation that she wanted included as part of a requested administrative review. The administrative review was conducted by a person not previously involved in the assessment of the apparent Missed Test and in accordance with the ISRM.

On December 15, 2022, the CCES notified the Athlete of the administrative review decision which confirmed a third Whereabouts Failure (Missed Test) against the Athlete.

## Results Management

11. On February 2, 2023, having reviewed all available information pertaining to each of the Athlete's three (3) Whereabouts Failures, the CCES issued a Notification of Whereabouts Failures by an Athlete ("Notification letter") to the Athlete through the CPU, pursuant to CADP Rule 7.2. Through this Notification letter, the CCES invited the Athlete to provide any information that identified a possible departure from the ISRM that would have undermined the validity of any of the three (3) Whereabouts Failures by February 9, 2023. The Notification letter further provided the Athlete the opportunity to accept a voluntary Provisional Suspension (VPS).

12. On February 9, 2023, the Athlete provided a response to the CCES's Notification letter and provided additional information explaining her view as to why her three (3) confirmed Whereabouts Failures should not be maintained.
13. On February 22, 2023, the CCES issued a Notice of Charge to the Athlete that asserted that she had committed an ADRV in accordance with CADP Rule 2.4 (Whereabouts Failures by an Athlete). The Notice of Charge asserted a two (2) year period of Ineligibility in accordance with CADP Rule 10.3.2, which states:

*10.3.2 For violations of Rule 2.4, the period of Ineligibility shall be two (2) years, subject to reduction down to a minimum of one (1) year, depending on the Athlete's degree of Fault. The flexibility between two (2) years and one (1) year of Ineligibility in this Rule is not available to Athletes where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the Athlete was trying to avoid being available for Testing.*

14. In response to the CCES's Notice of Charge, the Athlete accepted a VPS on March 24, 2023.
15. Having assessed all the information provided by the Athlete, including that there was no evidence to suggest that the Athlete had any pattern of last-minute whereabouts changes or that her conduct raised suspicion that she was trying to avoid being available for Testing and that she tested negative within a few days of her September 28, 2021 Missed Test and November 28, 2021 Filing Failure, the CCES determined that the Athlete's case fell within the light degree of Fault range and proposed a fifteen (15) month period of Ineligibility in accordance with CADP Rules 8.4.1, 10.3.2, and 10.6.2.

#### **Confirmation of Violation and Sanction**

16. On June 14, 2023, and in accordance with CADP Rule 8.4.1, the Athlete signed an Agreement on Consequences and waived her right to a hearing, thereby admitting the ADRV and accepting both the asserted violation and the proposed period of Ineligibility plus all other applicable Consequences.
17. Therefore, the sanction for this violation is a fifteen (15) month period of Ineligibility which commenced on February 2, 2023, and concludes on May 1, 2024.
18. The CCES now considers this case closed.

Dated at Ottawa, Ontario this 18<sup>th</sup> day of July 2023.



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Kevin Bean  
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CCES