

INTERNATIONAL SKATING UNION

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Case No. 2015-01

April 13, 2015

Decision of the ISU Disciplinary Commission

Panel:

- Volker Waldeck, Chair
- Fred Benjamin
- Dr. Allan Böhm.

In the matter of

International Skating Union, Chemin de Primerose 2, 1007 Lausanne, Switzerland,
represented by its Legal Advisor, Prof. Dr. Michael Geistlinger,

- Complainant -

against

Mr. SeungSoo HAN,

- Alleged Offender -

and

Korea Skating Union,

-Interested ISU Member-

**Concerning alleged violation of the ISU Anti-Doping Rules
I. History of the procedure**

On February 23, 2015 the ISU filed a complaint against the Alleged Offender, together with three exhibits. On March 4, 2015, the Alleged Offender and the Interested Member were invited by the ISU Disciplinary Commission to file a statement of reply within 21 days upon receipt of the complaint. The Interested Member, Korea Skating Union, filed a statement of reply on March 20, 2015.

II. Procedural Matters

According to Article 24, Paragraph 10 of the ISU Constitution 2014 and Article 8.1.1 of the ISU Anti-Doping Rules 2015 the Disciplinary Commission has jurisdiction in anti-doping cases arising out of ISU Testing or Testing at International Events or Competitions.

The present case arises out of testing at the ISU World Cup Short Track Speed Skating 2015 in Dresden, Germany, i.e. of testing at an International Event. Prior to this event, on July 30, 2014 the skater had signed the “Declaration for Competitors and Officials entering ISU Events” for the season 2014/2015. This Declaration states:

I, the undersigned,

1) accept the ISU Constitution, which establishes an ISU Disciplinary Commission (Article 24) and recognizes the Court of Arbitration for Sport (CAS), in Lausanne, Switzerland as the arbitration tribunal authorized to issue final and binding awards involving the ISU, its Members and all participants in ISU activities, excluding all recourse to ordinary courts (Articles 25 & 26);

V) am familiar with the ISU Code of Ethics (ISU Communication 1717 or any update of this Communication) as well as ISU Anti-Doping Rules (ISU Communication 1765 & 1800 or any update of these Communications) and also with the current List of Prohibited Substances and Methods and I declare that I will fully comply with such Rules.

Evidence:

- “Declaration for Competitors and Officials entering ISU Events” of SeungSoo Han.

Therefore the ISU Disciplinary Commission has jurisdiction to hear and decide this case.

III. Facts

The Alleged Offender is a Short Track Speed Skater, Member of the Korean Skating Union, who competed in the ISU World Cup Short Track Speed Skating 2015, which took place in Dresden, Germany, from 6 to 8 February 2015. On 7 February 2015, he completed the 1000 m race as 7th.

On 7 February 2015, the Alleged Offender was selected by random for Anti- Doping testing. After the final race of the distance, the Sample Collection Personnel notified the name of the drawn Skater as usually on the door of the Doping Control Station. The Doping Control Station was situated close to the Skaters’ dressing rooms and well known to all Skaters. At 6 pm, the 1000 m race ended, but the drawn Skater SeungSoo Han did not appear at the Doping Control Station and his team-mates informed the Doping Control Officers that he had left the ice-rink. Mr. Han was found in the hotel and arrived from there at the Doping Control Station at 6.27 pm. The Skater explained that he had left the ice-rink without checking the names list on the door of the Doping Control Station. The doping control was completed at 6.56 pm.

Evidence:

- Note of the ISU Representative of 07.02.2015
- Doping Control Officer Report Form of 09.02.2015
- Doping Control Form of 07.02.2015

On March 20, 2015, the ISU Disciplinary Commission received an explanatory letter of the Korea Skating Union regarding the Anti-Doping test of Mr. SeungSoo Han. The Korean Skating Union explained:

“During the competition, he (Mr. Han) had injury on the parts of the body (waist and ankle), in which he had been injured before. He felt pain and went to hotel to get treatment at 6 pm. As soon as arriving at hotel, he got a call from Korean national team that he was selected by random for Anti-Doping Testing.....

He returned to the ice-rink immediately and arrived at Doping Control Station at 6.27 pm and completed the Anti-Doping Test at 6.56 pm without any problem....

Even though he violated the Anti-Doping rule, he did it without any impure intention, and he returned to ice rink without delay to complete the test....

Mr. SeungSoo Han is regretting his mistake and Korea Skating Union would like to ask ISU to consider the situations beyond his control.

May we kindly ask the ISU to make a generous decision towards the skater.”

Evidence:

- Statement of reply of Korea Skating Union, March 20, 2015

IV. Motions

The Complainant filed a motion as follows:

1. To find the Alleged Offender guilty of a violation of Article 22.1.7 ISU Anti- Doping Rules.
2. To impose upon the Alleged Offender a suspension from competing at any ISU Event for three months from the date of the decision of the Disciplinary Commission.

The Alleged Offender, represented by Korea Skating Union moves

“to make a generous decision.”

The Alleged Offender waived the right of an oral hearing.

V. Law

Article 22.1.7 of the ISU Anti-Doping Rules 2015 reads as follows:

“It is the responsibility of the Skater to make sure that he/she has not been selected for Testing.

If the absent Skater nevertheless gains knowledge of having been selected for Testing, he/she must return to the Doping Control Station immediately, at the latest before the testing procedures for the competition in which he/she participated are completed.

A Skater who fails to receive notification for sample collection due to not reporting at the Doping Control Station at the end of each segment of the Event in which he/she has participated to confirm whether he/she has been selected for Testing is subject to (...)disciplinary sanctions.”

It is uncontested that the Alleged Offender failed to report at the Doping Control Station at the end of the Event. The 23 years old skater is an experienced skater on international level. In his “Declaration for Competitors and Officials entering ISU Events” the Alleged Offender confirmed to be familiar with the ISU Anti-Doping Rules and declared that he will fully comply with such rules. The skater has apologized for not having attended the doping control because he got an injury during the competition and suffered pain. Therefore he has left the ice rink immediately after the competition to get a treatment at the hotel. The Korean National Team reminded him at the hotel that he was selected by random for Anti-Doping Testing. The panel believes that the skater did not miss the doping control with intent. He returned to the ice rink immediately after having realized his failure. The doping control took place 30 minutes after the event.

According to Article 22.1.7 of the ISU Anti-Doping Rules 2015 the sanctions for a first time violation range from a reprimand to a period of up to one year suspension from competing at any ISU Event. The Complainant has moved to suspend the Alleged Offender from competing at any ISU Event for three months.

According to the established case-law of the ISU Disciplinary Commission the appropriate sanction in case of a first time unintended violation is a reprimand only. The panel does not impose a suspension upon the Alleged the Offender.

V. Decision

1. SeungSoo Han is declared responsible for an Anti-Doping violation, committed at the ISU World Cup Short Track Speed Skating 2015 in Dresden, Germany.
2. SeungSoo Han is reprimanded and warned to not engage in similar conduct in the future, which conduct will cause a more severe action.
3. Korean Skating Union has to reimburse the ISU for the costs of these proceedings.
4. The skater bears his own costs.

April 13, 2015



Volker Waldeck



Fred Benjamin



Dr. Allan Böhm

The present decision is subject to appeal to the Court of Arbitration for Sport, Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland, within 21 days upon receipt of the decision, in accordance with Article 24 Paragraph 12 and Article 25 of the ISU Constitution 2014.