

## **INTERNATIONAL OLYMPIC COMMITTEE**

### **IOC DISCIPLINARY COMMISSION RECOMMENDATIONS**

#### **REGARDING MR MARTIN TAUBER BORN ON 11 APRIL 1976, ATHLETE, AUSTRIA, CROSS COUNTRY**

1. Pursuant to the terms of the “Entry Form – Eligibility Conditions” pertaining to the XX Olympic Winter Games in Torino in 2006 (the “Torino Olympic Games”), Mr TAUBER agreed to abide by the Olympic Charter and the IOC Anti-Doping Rules applicable to the Torino Olympic Games (the “IOC Anti-Doping Rules”).
2. In February 2006, Mr TAUBER competed in the Men’s 30 km Pursuit in which he placed seventeenth, the Men’s 15 km Classical in which he placed eighth and the Men’s 4 x 10 km Relay.
3. The Italian police searched the premises in which Mr TAUBER resided, namely via del plan no. 5 in Pragelato, on the night of 18 February 2006 pursuant to a search and confiscation warrant.
4. The Italian police found a number of items within the accommodation of the Austrian cross-country and biathlon teams, including numerous syringes (some used), blood bags (some used), butterfly valves for intravenous fusion, injection needles, bottles of saline and devices for measuring a person’s haemoglobin levels as well as a device for determining the blood group of a blood sample.
5. Specifically in relation to Mr TAUBER, the Italian police found the following materials:
  - 1 Biotest device for haemoglobin testing on Mr TAUBER’S bedside table;
  - 2 jars containing respectively 18 and 11 medical devices for haemoglobin testing in the Athlete’s travel bag;
  - 14 medical devices, including an open pack of needles with used single-use needles with traces of blood; 10 closed boxes of single-use needles; 2 unopened packs of needles for infusion and transfusion; and 1 unopened infusion device pack.
6. Subsequently, the Torino Prosecutor’s Office analysed the seized materials. The resulting report noted that the “biotest device for haemoglobin testing” was a haemoglobinmeter which had been used 59 times between 10-19 February 2006. It was further noted that haemoglobin levels were recorded at levels just above the threshold limit of 17g% several hours prior to a competition and then dramatically dropping below the threshold immediately prior to the start of a race.

7. During the course of the Torino Olympic Games, Walter MAYER, who was the subject of the 2002 Salt Lake City “blood bag” affair and who was the subject of the police search warrant, was interviewed by the news media as “Head Trainer” of the Austrian cross-country skiing/biathlon teams along with Mr TAUBER after the latter had competed in the 15 km (classical) event. During the interview, Mr MAYER provided detailed information about Mr TAUBER and on the planning for the 4 x 10 km cross-country relay.
8. Following the Games, the Austrian Olympic Committee (“AOC”) established an Inquiry Commission to investigate the conduct of the Austrian cross-country and biathlon teams at the Torino Olympic Games. Among other things, the AOC Inquiry Commission found that “medicines and medical equipment were lying around in the accommodation and obviously being used by the athletes without supervision ...”.
9. In relation to Mr TAUBER, the AOC Inquiry Commission noted that the materials referred to in paragraph 5 above were reported by the police as having been seized from Mr TAUBER.
10. The Austrian Ski Federation (“ASF”) Disciplinary Board also conducted a general investigation into the conduct of the Austrian cross-country and biathlon teams at the Torino Olympic Games.
11. In these circumstances, the IOC informed Mr TAUBER by letter dated 1 March 2007 that the IOC was establishing a Disciplinary Commission, comprising Dr Thomas BACH (Chairman), Mr Denis OSWALD (member) and Mr Sergey BUBKA (member), to investigate the appropriateness of sanctions in connection with the seizure of evidence from his accommodation which appeared to demonstrate the possession, administration and use of prohibited substances and prohibited methods, or complicity in violations of the IOC Anti-Doping Rules.
12. Mr TAUBER was also informed that the Disciplinary Commission would conduct a hearing on 4-5 April 2007 at the IOC headquarters in Lausanne, Switzerland.
13. Mr TAUBER was informed that he was suspected of having committed the following violations:
  - a. possession of Prohibited Methods pursuant to Article 2.6.3-M1 and 2.6.3-M2 of the IOC Anti-Doping Rules; and
  - b. administration or attempted administration of a Prohibited Substance or Prohibited Method to any athlete, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any attempted violation, pursuant to Article 2.8 of the IOC Anti-Doping Rules.
14. Mr TAUBER was given a choice as to whether to attend the Disciplinary Commission hearing in person or to submit a defence in writing.
15. Ultimately, Mr TAUBER chose the latter. His attorney, Dr Adolph PLATZGUMMER, responded by letter dated 19 March 2007 in which he stated that

his client did not commit any doping offences and would not be able to attend the 4 April 2007 hearing. Dr PLATZGUMMER also stated that Mr TAUBER had not been furnished with sufficient facts to understand the accusations against him.

16. Nevertheless, Dr PLATZGUMMER conceded that Mr TAUBER had privately purchased a haemoglobinmeter because his haemoglobin levels were constantly very high and stated that the device was also used by other Austrian athletes. Dr PLATZGUMMER also conceded that his client scratched his fingertip several times a day with a needle in order to draw blood and then test his haemoglobin levels.
17. Dr PLATZGUMMER further acknowledged that Mr TAUBER brought an infusion device and a butterfly needle to the Torino Olympic Games as a precautionary measure. Dr PLATZGUMMER also accepted that his client possessed “single-use needles” at Torino, but that “most of the items found were still in their original packaging”.
18. In effect, Mr TAUBER has, through his counsel, confirmed the police report that he possessed during the Torino Olympic Games a haemoglobinmeter, used, as well as unused, needles, an infusion device pack and other medical devices.
19. By letter dated 28 March 2007, the IOC reminded Mr TAUBER that his attendance at the hearing would give him an opportunity to provide any explanations he might have in relation to the seized materials.
20. The Disciplinary Commission convened on 4-5 April 2007. In addition to the members of the Commission, the following were also present:
  - Francois CARRARD, Senior Legal Advisor (in part)
  - Mark MANGAN, Legal Advisor
  - Howard STUPP, IOC Legal Director
  - Christian THILL, IOC Legal Department
  - Patrick SCHAMASCH, IOC Medical Director
21. While Mr TAUBER declined the opportunity to attend the hearing, the cross-country athlete Markus HASLER of Liechtenstein appeared before the Disciplinary Commission on 5 April 2007 and gave evidence on the events surrounding the seizure of materials by the Italian police.
22. Despite representing Liechtenstein, Mr HASLER confirmed that he had been assigned to the Austrian cross-country ski team for the purposes of meals, accommodation and training. Accordingly, Mr HASLER confirmed that he had intimate knowledge of the housing arrangements for the Austrian cross-country ski team during the Torino Olympic Games.
23. Having considered the evidence before it, the Disciplinary Commission concludes that Mr TAUBER has violated the IOC Anti-Doping Rules by

possessing prohibited methods. In particular, it is apparent that he possessed materials for the carrying out of blood transfusions and the artificial manipulation of blood haemoglobin levels in violation of Article 2.6.1 of the IOC Anti-Doping Rules (categories M1(a) and M2(b) of Article 2.6.3 of the IOC Anti-Doping Rules). In reaching this conclusion, the Disciplinary Commission notes the following evidence against Mr TAUBER:

- the report by the Italian police of its discovery of various medical devices belonging to him;
- his lawyer's confirmation that Mr TAUBER possessed the materials reported as having been found by the police;
- the determination by the Torino Prosecutor's Office that Mr TAUBER's haemoglobinmeter had been used regularly over an extended period of time, with a significant number of tests being performed immediately prior to a race; and
- testimony by Mr HASLER before the IOC Disciplinary Commission to the effect that Mr TAUBER had acknowledged to him that the police had found various medical devices within Mr TAUBER's room.

24. The fact that some of the materials that were seized were unopened is irrelevant to a charge of possession.
25. In addition to the charge of possession considered above, it is necessary to consider the charge of complicity in the violations of others. The Disciplinary Commission notes that the Italian police seized a large amount of prohibited substances and methods throughout the Austrian cross country and biathlon team accommodation, including that of the athletes and their coaches and trainers. There is no reason to doubt the findings of the Italian police and the existence of this material has been acknowledged by the AOC Inquiry Commission. Indeed, several of the athletes, including Mr Wolfgang ROTTMANN and Mr Johannes EDER, have acknowledged in interviews before the ASF or the AOC Inquiry Commission that the police seized various medical equipment and substances from their rooms. Moreover, many of the athletes, namely Mr Juergen PINTER, Mr Roland DIETHART and Mr Martin TAUBER, have, through their counsel, confirmed in writing in these proceedings that many of the items reported by the police as having been found were in their possession. These items include a haemoglobinmeter, butterfly valves, syringes, needles and saline. The team doctor, for his part, has asserted that he was not aware that the athletes possessed such a vast array of medical equipment. Moreover, despite this equipment normally being administrable by a doctor for medical reasons, neither the team doctor nor any other doctor was accommodated with the athletes.
26. Furthermore, the seized material was found in shared houses that were contiguous, so that the occupants are extremely likely to have been aware of the existence of the practices of their fellow athletes residing in their respective houses. Indeed, video footage of the houses has confirmed that the housing

plans were relatively open with shared dining and kitchen facilities, as well as small bedrooms that were sparsely furnished.

27. The Italian authorities noted that a number of the materials that were found were prepared in a professional manner. They also noted that the seized materials evidenced collaborative know-how capable not only of collecting blood but also of freezing it in accordance with the most modern techniques available. Further, the fact that a device was found that allowed one's blood group to be determined suggests that multiple athletes were infusing blood that had originated from multiple sources. In addition, a number of the athletes, including Mr TAUBER, have admitted using a haemoglobinmeter for regular checking of their haemoglobin levels. Indeed, Mr TAUBER's counsel acknowledges that athletes other than Mr TAUBER used his haemoglobinmeter. Furthermore, much of the same medical equipment was found in the possession of multiple athletes competing in two different sports and residing in various locations.
28. The Disciplinary Commission notes that Mr TAUBER could not have been unaware of the very serious and highly publicized incident following which certain members of the Austrian cross-country ski team, and in particular Walter MAYER, all having organized their sojourn in a very similar manner, were found to have been engaged in the use of prohibited methods at the Salt Lake City Olympic Games in 2002. The Disciplinary Commission further recalls that this incident resulted in sanctions against members of the Austrian Cross Country ski team.
29. In these circumstances, the Disciplinary Commission concludes that Mr TAUBER's violations of the IOC Anti-Doping Rules was facilitated and supported by significant collusive collaboration, the full parameters of which will be explored by the Disciplinary Commission in due course. At this juncture, it is sufficient to note that Mr TAUBER's involvement in this collaboration was itself a violation of the IOC Anti-Doping Rules in that he necessarily assisted, encouraged, aided and abetted, and covered up IOC Anti-Doping Rule violations committed by his fellow athletes in the Austrian cross-country ski team.
30. While Mr TAUBER's possession of prohibited substances and methods warrants being sanctioned in its own right, it is Mr TAUBER's collaboration with his fellow athletes and support staff that is particularly disturbing. Moreover, the Disciplinary Commission finds Mr TAUBER's conduct to constitute aggravating circumstances and therefore worthy of significant sanctions given that the doping violations committed by members of the Austrian cross-country ski team during the Salt Lake City Olympic Games in 2002 should have been taken as a clear warning that the IOC would not tolerate such behaviour.
31. The Disciplinary Commission unanimously concludes that Mr TAUBER has violated Articles 2.6.1 and 2.8 of the IOC Anti-Doping Rules in that he possessed, and aided and abetted other athletes to use or possess, prohibited methods.
32. Finally, given that Mr TAUBER participated in a team sport, it is relevant to note that Article 11.1 of the FIS Anti-Doping Rules provides:

If a member of a team is found to have committed a violation of these Anti-Doping Rules during a Competition, the team shall be Disqualified from the Competition with all resulting consequences, including forfeiture of any medals, points and prizes.

CONSIDERING the above, pursuant to the Olympic Charter and, in particular, Rule 23.2.1 thereof, and pursuant to the IOC Anti-Doping Rules applicable to the XX Olympic Winter Games in Torino in 2006 and, in particular, Articles 2.6.1, 2.6.3 and 2.8 thereof:

THE DISCIPLINARY COMMISSION OF THE  
INTERNATIONAL OLYMPIC COMMITTEE  
RECOMMENDS TO THE EXECUTIVE BOARD

- I. The athlete Mr Martin TAUBER, Austrian, Cross Country, Men's 30 km Pursuit, Men's 15 km Classical and Men's 4x10 km Relay:
  - i. be disqualified from the Men's 30 km Pursuit, in which he placed seventeenth;
  - ii. be disqualified from the Men's 15 km Classical, in which he placed eighth, and his diploma be withdrawn;
  - iii. be disqualified from the Men's 4x10 km Relay;
  - iv. be permanently ineligible for all future Olympic Games in any capacity.
- II. The Austrian Men's 4x10 km Relay team be disqualified.
- III. The Fédération Internationale de Ski be requested to modify the results of the above-mentioned events accordingly.
- IV. The file be referred to the Fédération Internationale de Ski to consider any further action within its own competence.
- V. The Austrian Olympic Committee be ordered to return to the IOC, as soon as possible, the diploma awarded to the athlete in the Men's 15 km Classical.

Beijing, 24 April 2007.

The IOC Disciplinary Commission

---

Thomas BACH  
Chairman

---

Denis OSWALD

---

Sergey BUBKA