

**Decision Number 02/2016**

**PANEL OF THE IAAF ETHICS COMMISSION**

**7 January 2016**

**The Honourable Michael J Beloff QC (Chairman)**

**Mr Akira Kawamura**

**Mr Thomas Murray**

**In the matter of: (1) Valentin Balakhnichev, (2) Alexei Melnikov, (3) Gabriel Dollé and (4)  
Papa Massata Diack and the IAAF Code of Ethics**

**DECISION**

**Introduction**

- 1) The central issue in this case is whether each of the Defendants was in breach of various provisions of the IAAF's Code of Ethics (the "Code") by their involvement in the suppression of findings of anti-doping violations by the female Russian marathon runner, Lilya Shobukhova ("LS"), and the exaction of monies from her as the price to pay for enabling her, by virtue of such suppression, to compete in athletics competitions. The Panel has come to the clear conclusion that the alleged breaches are made out.
- 2) The Defendants are:
  - a) Valentin Balakhnichev ("VB"), former President of the All-Russia Athletic Federation ("ARAF") and Honorary Treasurer of the IAAF;
  - b) Alexei Melnikov ("AM"), former Senior ARAF Coach for long distance walkers and runners;
  - c) Gabriel Dollé ("GD"), former Director of the IAAF's Anti-Doping Department; and
  - d) Papa Massata Diack ("PMD"), former marketing consultant to the IAAF and son of the IAAF's then President, Lamine Diack ("LD").
- 3) The case comes before the Panel in the manner prescribed by the statutes and procedural rules of May 2015<sup>1</sup> (the "Rules") of the IAAF's Ethics Commission (the "EC") (to be renamed the Ethics Board)<sup>2</sup> as hereinafter set out.

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<sup>1</sup> Revised on 26<sup>th</sup> November 2015 (the "revision").

<sup>2</sup> For convenience the former name will be used in this Decision.

## Procedural Background

- 4) In April 2014, the EC received a complaint<sup>3</sup> in relation to the matter referred to in paragraph 1 above from Sean Wallace-Jones ("SWJ") who is the Senior Manager, Road Running of the IAAF.
- 5) On 1 July 2014, the Chairman of the EC, the Honourable Michael J Beloff QC, determined that there was a case fit for investigation and appointed the Right Honourable Sir Anthony Hooper, ("Sir Anthony"), a former Lord Justice of the Court of Appeal of England and Wales, to investigate the allegations made and issues raised by the complaint.
- 6) On 5 August 2015, Sir Anthony submitted his investigation report to the EC recommending that disciplinary charges be brought against all four Defendants for various alleged breaches of the Code.
- 7) On 14 August 2015, Kevan Gosper, a member of the EC, who had reviewed the outcome of the investigation and the investigator's recommendations, endorsed the recommendations, in consequence of which the Chairman directed that adjudicatory proceedings be commenced.
- 8) On 14 September 2015, the Chairman appointed the Panel consisting of himself, Mr Akira Kawamura and Mr Thomas Murray.
- 9) On 14 September 2015, charges (the "Charges") were sent to the Defendants, who thereafter submitted their defences and supporting evidence in accordance with a schedule directed by the Chairman of the Panel:
  - a) In accordance with the Chairman's directions, and a subsequent extension of time, GD's defence was provided on 25 October 2015 but his defence was embellished in further correspondence with Sir Anthony up to and including on 15 December 2015.
  - b) AM's defence and exhibits were provided on 26 October 2015. He provided further documentation on 5 November 2015.
  - c) VB's defence and exhibits were provided on 26 October 2015.
  - d) PMD's defence was provided on 26 October 2015; his supporting evidence was provided on 6 November 2015.

## Law Procedure and Approach

- 10) Generally, the Rules appear to be based on an inquisitorial rather than an adversarial model; notably there is no provision requiring, as distinct from permitting, appointment

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<sup>3</sup> A complaint was at that time necessary for the initiation of EC disciplinary procedures but has not been so since the revision.

of a separate prosecutor<sup>4</sup>. Specifically as regards the Panel's adjudicatory function, Rule 13(16) provides:

*"The Panel shall in each proceeding (i) determine its procedure in accordance with these Rules and (ii) determine any other procedural matters arising in the course of the Proceedings that are not set out in the Rules, in accordance with the principles of natural justice. In particular, the Panel may in appropriate cases appoint a prosecutor or counsel to the Panel to present the case against the parties, or invite the investigator to present his or her conclusions to the Panel. The Panel may also conduct the Proceedings in an inquisitorial manner."*

The Panel has directed itself in accordance with that provision.

- 11) Over 16-18 December 2015, a hearing took place in London. None of the Defendants appeared in person at the hearing:
- a) VB appeared by video link and was represented by Mr Artem Patsev, also by video-link.
  - b) AM appeared by video link as did his two witnesses<sup>5</sup>.
  - c) GD appeared by video link.
  - d) PMD was represented at the hearing by Mr Christopher Moore and Ms Hannah Rogers of Cleary Gottlieb Steen & Hamilton LLP.
  - e) Sir Anthony attended in his capacity as investigator and, at the invitation of the Panel, made an opening statement duly drawing attention to the salient features of his report and his conclusions.
  - f) VB, AM (and his witnesses) and GD were all questioned by the Panel. LS and her husband Igor Shobukhov ("IS") also appeared by video link and were questioned by the Panel and cross-examined by Mr Patsev.
  - g) The Panel was assisted before and during the hearing by the two Legal Secretaries to the EC, Mr Tom Mountford and Ms Jana Sadler-Forster.
- 12) The charges against each of the Defendants are set out in Appendix A to this decision.
- 13) In order to determine whether the charges are made out the Panel must direct itself in accordance with the Rules which are themselves governed by and to be construed in accordance with Monegasque law (Procedural Rule 17(5)). They establish the following relevant principles:
- (i) The burden of proof lies upon the EC;

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<sup>4</sup> The relative merits of each are discussed in J.R.S. Forbes *Justice in Tribunals*, 3<sup>rd</sup> ed., pp. 199-204.

<sup>5</sup> Whose evidence is discussed in ¶28) below.

- (ii) The standard proof is set out in Rule 11(7) which provides that, “*The standard of proof in all cases shall be determined on a sliding scale from, at minimum, a mere balance of probability (for the least serious violation) up to proof beyond a reasonable doubt (for the most serious violation). The Panel shall determine the applicable standard of proof in each case*”;
- (iii) The approach to evidence is that set out in Rule 11 which provides, so far as material:

*“Types of evidence*

- (1) *The Ethics Commission shall not be bound by rules governing the admissibility of evidence. Facts relating to a violation of the Code may be established by any means deemed by the “Panel” hearing the case (the Panel) to be reliable.*
- (2) *Types of evidence shall include: the investigator’s report and other forms of evidence such as admissions, documents, oral evidence, video or audio evidence, evidence based on electronic media in any form and any such other form of proof as the Panel may deem to be reliable.*

*Inadmissible evidence*

- (3) *Evidence that obviously does not serve to establish relevant facts shall be rejected.*

*Evaluation of evidence*

- (4) *The Panel shall have the sole discretion regarding evaluation of the evidence.*
- (5) [...]
- (6) *The Panel may draw an inference adverse to the party if the party, after a reasonable request to attend a hearing, answer specific questions or otherwise provide evidence, refuses to do so.”*

- 14) In application of those principles in their legal context, the Panel determines as follows:

- (i) The charges against VB, AM and PMD are of the most serious kind involving as they do a form of blackmail. They must therefore under the present rules be proved beyond reasonable doubt, albeit the conventional standard for sports disciplinary proceedings is that of “comfortable satisfaction” which in the context of sports law, has its origins in *Andrei Korneev v International Olympic Committee*<sup>6</sup>.
- (ii) The charge against GD is of a lesser degree of seriousness. It must therefore be proved to the standard of comfortable satisfaction, which is lower than the criminal but higher than the civil standard of proof<sup>7</sup>.

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<sup>6</sup>CAS OG 003-4, 1996 (see discussion, in Beloff et al on Sports Law, 2nd edition (*“Beloff”*) ¶¶7.89-7.96.

<sup>7</sup> *Beloff, cit sup*; see also World Anti-Doping Code, (“WADC”) Article 3.1.

- (iii) Although the burden of proof in point of law lies upon the EC, the evidential burden may shift if the Investigator's report (or other admissible and reliable evidence) establishes a case for a Defendant to answer.
  - (iv) An unjustified refusal by a Defendant to attend a hearing may give rise to the Panel drawing an adverse inference against him. The importance of that provision is that it partly compensates for the circumstance that, unlike criminal courts, the Commission's investigators have no powers to compel documents or cooperation and a Panel of the Commission has no power to compel a defendant to appear before it. Such provision is not incompatible with the European Convention on Human Rights ("ECHR"), which was ratified by Monaco on 30 November 2005 and came into effect in the Principality on the same date. There is a consistent line of jurisprudence from the European Court of Human Rights ("ECtHR") that the right to silence or the privilege against self-incrimination, in so far as either applies to disciplinary proceedings<sup>8</sup>, does not prevent a court or tribunal from drawing inferences from the failure of a defendant to provide an explanation for strong circumstantial evidence against him.<sup>9</sup> Nor is the presumption of innocence in criminal proceedings enshrined in Article 180 of the Criminal Procedure Code of Monaco infringed by the drawing of such inference.
- 15) No Defendant has disputed that the Panel has jurisdiction over him. Two preliminary points have, however, been taken on behalf of PMD. First, that the disciplinary proceedings are irregular because they required under Rule 13(1) initiation by a complaint in writing. Second, that they are irregular because the Chairman and the investigator are both English. The Panel rejects these arguments. The first is founded on a mistake of fact since a complaint in writing was received from SWJ. The second is founded on a mistake of law; the Rules in force from 1st May 2015, unlike their predecessors, do not require that the Chairman and the Investigator are from different countries (Procedural Rule 13(15) refers only to the requirement that the panel members be from a different country than that of the parties). GD has argued that the case against him raises employment issues, but not ethical issues. The Panel considers that it can and does raise both.
- 16) It was also argued on PMD's behalf that the preconditions for the engagement of Procedural Rule 11(6) (drawing of adverse inferences for non-attendance at a hearing) are not satisfied since PMD has attended the hearing, albeit by Counsel only, and moreover has in the course of the hearing, through Counsel, indicated that, contrary to his earlier position, he is prepared to answer specific questions in writing. The Panel rejects that argument. Rule 11(6) is concerned with the Defendant's personal attendance; see for example the use of the phrase "the party" and with provision of evidence. That is the theme of Rule 11 is its entirety; see too the phrase in Rule 11(6) itself ("or otherwise

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<sup>8</sup> See *Beloff cit. sup.*, ¶8.44.

<sup>9</sup> See *Murray v UK [1996] 22 EHRR 29; Codron v UK (2001) 31 EHRR 1; O'Donnell v UK [2015] ECHR 357.*

*provide evidence*"). Moreover, in the email written by Cleary Gottlieb on his behalf on 14 December 2015, in response to a warning of the possible consequences of non attendance from the EC's Legal Secretary dated 11 December 2015<sup>10</sup>, it was stated clearly, "Mr. Diack does not intend to be present for any part of the hearing or to be available for questioning." A belated offer to answer specific questions in writing made only at the hearing itself would, even if taken at face value, not disentitle the Panel from drawing the appropriate inference from the refusal to attend since such non attendance disables the Panel from pursuing legitimate lines of inquiry. PMD is said to be liable to arrest in France or extradition thereto. The Panel appreciates that this, if it be the case, may explain his non-attendance at the hearing in London. It provides, however, no justification for a refusal to attend by video link. Procedural Rule 7 which is concerned with the obligation of parties to co-operate provides at sub-paragraph 3, "*If the parties fail to co-operate, the...Ethics Commission (or any Panel established by the Commission) as the case may be may reach a decision based on the file in possession, taking into account the conduct of the parties. The Ethics Commission may also treat non-cooperation as an independent breach of the Code of Ethics.*" This underlines the consequences which may ensue for a party who does not appear at all.

- 17) VB and AM have, for their part, objected to any reliance being placed on the well-publicised investigation report of an Independent Commission appointed by WADA, published on 9 November 2015 (the "first WADA IC Report"), which was highly critical of both of them,<sup>11</sup> and which, on 18 November 2015, the Panel indicated might be taken into account in its own deliberations.
- 18) By way of illustration, VB wrote on 20 November 2015:

*"[...] I would like to make a strong objection against the WADA Independent Commission's Report of 9 November 2015 being considered as evidence in my case.*

*Pursuant to Rule 11(3) of the Procedural Rules of the IAAF Ethics Commission, evidence that obviously does not serve to establish relevant facts shall be rejected. The WADA IC Report of 9 November 2015 does not establish any relevant facts concerning the case. Paragraph 4.5 of the WADA IC Report clearly states the following: "The IC has applied its own judgment and appreciation to investigative results and other evidence discovered during the course of the investigation. While the IC has had the benefit of excellent investigative results brought to its attention, the findings and recommendations in this Report are those of the IC alone. Where evidence has not been made available to investigators on certain aspects of the investigation, the IC has drawn inferences that were considered appropriate in the circumstances." According to par.1.9 of the WADA IC Report, "In addition, the overwhelming majority of exhibits and interview records have not been reproduced,*

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<sup>10</sup> The email from the EC's Legal Secretary to all parties on 11 December 2015 stated, in material part, "*Even if a party chooses not to attend [the hearing] in person or by video-link, that party should be aware that the Panel may require that person to make themselves available by video link for the purpose of answering questions from the Panel. Failure of a party to make themselves available for questioning if required may lead to an adverse inference being drawn against that party.*"

<sup>11</sup> See the first WADA IC Report Findings, pp.173-4 especially ¶¶3-7.

*in the interests of limiting the volume of the Report. Such materials have, however, been retained in secured storage.”* (emphasis added).

*It is absolutely clear that the WADA IC Report does NOT contain any real evidence (which is been retained in secured storage), but some assertions and/or inferences based on the IC member’s private opinions on what is appropriate or not. That by itself makes it absolutely impossible to use the WADA IC Report as evidence in this particular case.”*

- 19) The Panel has sympathy with this submission. The Panel has no reason to doubt that generally<sup>12</sup> the WADA Independent Commission (“IC”) has reached appropriate conclusions on the evidence before it, but equally, in the absence of access to that evidence which it has not been accorded, has no means, save where statements or documents are actually quoted in it, of verifying the appropriateness of those conclusions. Moreover, it has been stated the IC intends to publish a further report on the issue of complicity by persons within the IAAF in the suppression of anti-doping violations. The Panel has *ex hypothesi* no access to that unpublished report (“the second WADA IC Report”) or its underlying evidence. Moreover in principle, the conclusions of even so eminent a body of investigators as composed the IC cannot carry the same weight with a disciplinary tribunal as evidence that has been adduced, tested and evaluated in the context of a forensic process such as the Panel has had to carry out. The IC’s function was to report on a wide remit set out in its terms of reference<sup>13</sup>; it has no disciplinary function. This Panel’s function is to adjudicate on the narrow but important issue set out in paragraph 1) above, which embraces only a fraction of the terrain covered in the first and (presumptively) second WADA IC Report. The Panel will therefore rely in reaching its own conclusions on (i) its own Investigator’s report, which the Panel has determined to append as Appendix B to this decision, and the evidence amply and helpfully included or referred to in it<sup>14</sup>; (ii) the oral testimony of LS and IS; (iii) matters of public record or of which it can take judicial notice; (iv) any items of evidence *stricto sensu*<sup>15</sup> in the first WADA IC Report; (v) the oral evidence of VB, AM (including that of his witnesses) and GD; and (vi) GD’s emails to Sir Anthony postdating his Report.

#### The undisputed facts

- 20) The starting point of any analysis, in the Panel’s view, lies in the following undisputed facts:<sup>16</sup>

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<sup>12</sup> The adverb ‘generally’ is deliberately chosen. AM has suggested that the WADA IC Report misconstrued remarks he made in an interview with WADA IC investigators in Moscow on 2 July 2015, described at paragraph 11.7.2 of the WADA IC Report, as constituting an admission of involvement in anti-doping violations. After itself listening to the recording, the Panel is disposed to agree that Mr Melnikov did not make any such admission in this interview.

<sup>13</sup> Set out in the first WADA IC Report ¶1, page 2.

<sup>14</sup> Which included written statements from LS verifying that of IS, Andrey Baranov (“AB”), LS’s manager, Thomas Capdevielle, (“TC”), Senior IAAF Anti-Doping Manager, SWJ and Huw Roberts (“HR”) former IAAF legal counsel.

<sup>15</sup> I.e. where statements or documents are actually quoted, see ¶ 19 above.

<sup>16</sup> The reference “AHR” is to the relevant paragraphs of the Investigator’s report.

- a) LS is a marathon runner who, in consequence of victories in the 2009, 2010 and 2011 Chicago marathons and the 2010 London marathon (AHR 1.1) became one of the best paid athletes in the world earning up to \$1.5 million in the years 2009-2011.
- b) A number of Russian athletes including LS were considered by the IAAF anti-doping department to have atypical Athlete Biological Passport profiles (AABPP) (AHR 12).
- c) In November 2011, Habib Cissé ("HC") the legal adviser of President LD took over personal supervision of the Russian AABPP cases (AHR 13).
- d) On 18 November 2011, LS's AABPP was referred to an expert IAAF Panel (AHR 12).
- e) In late November and early December 2011, the three experts who comprised the expert IAAF Panel opined that it was highly likely, absent a satisfactory explanation from the athlete, that her AABPP was the result of the use of a prohibited substance or method (AHR 24). In consequence, an abrupt halt was called to the ratification of LS's world record for 30km set in the Chicago Marathon of 2011(AHR 25).
- f) No appropriate steps of any kind, however, were taken against LS in consequence until 12 June 2012 (AHR 68).
- g) Cash was withdrawn from the bank account of LS and IS as follows, \$100,000 on 27 December 2011 (AHR 27) and \$100,000 on 5 June 2012 (AHR 33).
- h) On 12 June 2012, the IAAF anti-doping department, in the light of its own preliminary review which identified no such explanation as is referred to in paragraph 20)e) above, informed VB that it was considering bringing charges against LS for an anti-doping violation unless she admitted the violation by 19 June 2012 and accepted a sanction, or provided an explanation by 26 June 2012 (AHR 68).
- i) No such admission or explanation was given by LS. In such circumstances, under IAAF anti-doping rule 38 and following, ARAF should have initiated disciplinary proceedings but did not do so.
- j) At no time before then or thereafter did GD exercise his powers of provisional suspension attendant on his office.
- k) On 19 June 2012, \$120,000 was withdrawn from the bank account of LS and IS (AHR 35).

- l) LS competed in the London Olympics 2012 on 5 August 2012 (AHR 87) and in the Chicago marathon in the same year on 7 October (AHR 103); she dropped out of the former race and came fourth only in the latter. She was not subjected to any blood tests during that year.
- m) On 3 December 2012, the IAAF sent a letter to ARAF setting new deadlines for admission and acceptance of sanction and/or explanation by LS, being 10 December 2012 for the former and/or 17 December 2012 for the latter (AHR 107). Neither was provided.
- n) Sometime in early December 2012, PMD, HC and VB met in Moscow; the precise date and content of that meeting is controversial.<sup>17</sup>
- o) In December 2012, LS found that she was pregnant (AHR 110). She gave birth to a daughter on 7 September 2013 (AHR 127). She did not therefore compete in 2013.
- p) On 15 February 2013, GD wrote to VB asking for an update on LS's case (AHR 125). No action was taken by either pursuant to such letter.
- q) On 3 March 2014, GD wrote to VB asking ARAF to conclude LS's case and to impose an appropriate sanction (AHR 135-136).
- r) On 7 March 2014, the IAAF anti-doping department sent VB an acceptance of sanction form for LS (AHR 203).
- s) On 12 March 2014, LS, IS, AM and VB met in ARAF's headquarters in Moscow to discuss whether LS would sign the acceptance of sanction; the content of that meeting is otherwise controversial.<sup>18</sup>
- t) On 28 March 2014, €300,000 was transferred out of an account of a company called Black Tidings in Singapore via Standard Chartered Bank in Singapore to IS. On the same date, a bank confirmation of this transfer was emailed from an email address (bonnot1963@gmail.com) which is associated with the name Jean Pierre Bonnot, to VB and VB forwarded this to AM, who subsequently forwarded it to LS.
- u) Black Tidings is a sole proprietorship of Ianton Tan (see ¶21b) below); its address is 28 Dakota Crescent, Singapore.
- v) PMD's consulting firm, "PMD Consulting", had its domain name, "pmdconsulting.com", registered at the same address as Black Tidings (AHR 180)<sup>19</sup>.

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<sup>17</sup> And discussed from ¶39) below.

<sup>18</sup> for LS/IS version see AHR 139 and 142. for VB version see AHR 141 and 143. For AM version see AHR 144 and Defence ¶¶50-52.

- w) The banking documents show that VB, via AM, confirmed transfer of the sum to LS (AHR 148-150). Confirmation arrived to LS/IS on 30 March 2014 (AHR 205).
- x) Both VB and AM accept that the transfer was made and that they were aware of it (AHR 146).
- y) An acceptance of sanction form bearing what purports to be LS's signature is dated 28 March 2014 (AHR 188). LS has denied that the signature is hers and a handwriting expert has opined that it is a forgery (AHR 206). It was not relied on in the ARAF decision (AHR 189-190) referred to in paragraph 20)z) below.
- z) On 9 April 2014, ARAF decided (see the letter extracted at AHR 189) that LS was guilty of an anti-doping violation as a result of her AABPP for the period 9 October 2009 to 7 October 2011 and, *inter alia*, held her ineligible to compete for 2 years from 24 January 2013 when she voluntarily withdrew from competition (AHR 190).
  - aa) The evidence of an anti-doping violation by LS was exactly the same as (i.e. no more extensive than) that vouched for in the opinion of the three experts referred to in paragraph 20) e) above).
  - bb) Subsequently, the IAAF appealed to CAS on the basis that the two year sanction was too low. HC at that time (but no longer at the time of the settlement referred to in paragraph 20) cc) below) acted for the IAAF.
  - cc) On 30 June 2015, the IAAF, ARAF, WADA and LS entered into a settlement agreement in which the following consequences were imposed on LS in respect of her anti-doping rule violation: (i) a period of ineligibility of 3 years and two months and; (ii) a disqualification of all her competitive results from 9 October 2009.
  - dd) On 29 July 2015, the settlement agreement was embodied in a CAS award.
  - ee) On 24 August 2015, WADA suspended seven months of LS's period of ineligibility because of LS's co-operation with WADA and provision of information and documentation that is valuable in the fight against doping as well as her promise of future co-operation.

#### Transfer of €300,000 from Black Tidings to LS

- 21) There are two rival and entirely incompatible versions of the transfer of the €300,000 from Black Tidings to LS on 28 March 2014:

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<sup>19</sup> The Panel emphasise that it will consider hereafter whether the connection between PMD and Black Tidings is more substantial than this.

- a) On LS/IS's amended version, which Sir Anthony endorsed in light of his investigations, it represented a partial repayment of the sums which had been paid by LS, pursuant to demands emanating from AM for payment, in consideration of removal of her name from the list of Russian athletes with suspicious ABPPs. The sums LS paid had been paid in three tranches, all in Moscow, on 11 January 2012 to AM, on 18 June 2012 to AM and on 11 July 2012 to a Mr Lukashkin, another Russian coach. They had been paid by LS in order to ensure that no disciplinary action be taken by ARAF or the IAAF on her AABPP such as would prevent her from participating in the London 2012 Olympics, and so as to extend her lucrative career as a marathon runner. Such action was, in the event, merely delayed rather than terminated completely (see undisputed facts above). The repayment was to be a *quid pro quo* for her acceptance of sanction.
  - b) On VB/AM's version, it was part of a scheme devised by LS's manager Mr Baranov ("AB") to discredit VB and AM, who had resisted his attempts to procure prohibited substances for Russian athletes or to agree to protect his athletes with AABPPs from anti-doping bodies (AM Defence ¶¶16-18); it was AB who slowed down the IAAF decision-making concerning LS (AM Defence ¶72); once the IAAF resumed activity into LS's AABPP AB decided to blacken the name of VB and AM by persuading Mr Ianton Tan, also known as Mr Tong Han Tan (or in the Chinese order of surname preceding first names(s), Tan Tong Han) ("ITT") of Black Tidings to enter their names into the bank transfer documents although without intention that any payment should actually be made, but to the 'amazement' (sic) of IS and AB it actually was (AM Defence ¶75). AB then spun a story to SWJ in which he was a 'victim' who became a whistle blower (AM Defence ¶ 76) (see too VB Defence ¶58ff).
- 22) In the Panel's view the transaction involving the €300,000 is the pivotal event in this saga and on how it is characterized depends the outcome of the charges against VB, AM and PMD. It therefore starts by considering the plausibility of the rival versions, seeking, in so doing, *inter alia*, to identify a version compatible with the undisputed facts.

#### The LS/IS version

- 23) The Panel observes that:
- a) The version of LS and IS as detailed out in their evidence is coherent,<sup>20</sup> convincing in terms of its details as to persons, locations and times as well as in its uncertainties (which occasionally they admit to) and fits well with the undisputed facts set out in paragraph 20) above. Bank documents verify the withdrawals of sums said to constitute the payments. Air tickets verify LS/IS's presence in Moscow on the dates such payments were said to have been made.
  - b) The Panel accepts that Mr Patsev for AM was able to show that other sums of similar size were withdrawn on other dates for what LS and IS asserted to be sundry

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<sup>20</sup> It is also in its essential elements, subject only to the variation discussed in ¶30) below consistent with what they told the journalist Mr Hajo Seppelt, compiler of the ARD documentary broadcast on 3 December 2014, and the interview with the WADA investigator on 11 December 2014.

expenditure on cars, accommodation and like items and that the size and timing of the withdrawals was therefore not by itself necessarily indicative of their purpose. The Panel accepts too that were there an alternative purpose to that volunteered by LS and IS for why they required such sums there is no reason why it would be known to AM<sup>21</sup> or VB. However none of that of itself undermines the LS/IS version and entirely fails to address the points that (i) the withdrawals closely preceded the three LS/IS visits to Moscow (ii) more importantly, the transfer of the €300,000 was made precisely at the time when ARAF were compelled to take belated action against LS.

- c) In this context the Panel find particularly impressive the reasoning at AHR 218:

*"The fact that the acceptance of sanction form purporting to be signed by LS bears the same date as the bank confirmation and the two emails Bonnot to VB and VB to AM provides strong evidence in support of the account of the transfer given by LS/IS. Whereas according to VB and AM the transfer has nothing to do with any repayment of monies, the fact that the allegedly forged form bears the same date as the bank transfer suggests very strongly otherwise. It is to be remembered that, at this time, ARAF were under considerable pressure to resolve the matter and take disciplinary action against LS, see [129], [135] and [137]."*

- 24) Indeed the Panel agrees with Sir Anthony that the very fact of the forgery, "suggests very strongly that VB and others in ARAF were involved in a cover-up" (AHR 255).
- 25) Moreover, as is noted at AHR 131, quoting from a statement of SWJ (who had no conceivable reason to be wrong in what he there said deliberately or otherwise), SWJ recounts that, *"On 28 March [2014] in the evening I met Baranov who was in Copenhagen for the [World Half-Marathon] Championships and staying at the official hotel. He told me that his athlete has been contacted by the Russian Federation and asked to sign a paper accepting a suspension; she had been told that the Federation would pay her back 300,000..."*. The meeting between SWJ and AB appears to have been adventitious but the date (28 March 2014) again fits precisely the overall LS/IS version. It is not stated by SWJ that AB sought to inculpate VB or AM by name either then or on an earlier occasion when he first told SWJ about the payments made by LS which would be very odd if they were indeed his prime targets for his (on VB/AM's case) contrived and malicious fictions.<sup>22</sup>
- 26) There are other aspects of the LS/IS version which appear all but impossible to have been the product of invention. For example, they attribute to AM references to an unnamed lawyer said to be the recipient of the sum of the monies paid over (for example, IS statement ¶¶34, 38, 39, 59). The introduction of such an anonymous person into the story would be quite unnecessary if the aim was to take revenge on VB and AM only. More importantly the lawyer (clearly HC) did indeed exist; he was not a fictional

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<sup>21</sup> AM fairly makes this point in his Defence at ¶40.

<sup>22</sup> There is evidence attached to the Investigator's report which suggests that efforts were made by AM during 2014 to persuade AB to compel LS to accept a sanction but also to withdraw his allegations of corruption and cover-up, including a draft letter (never sent or signed) dated 11 April 2014 to the Chairman which AB says was sent to him from ARAF. The Panel has not found it necessary to explore this issue.

character. Notably IS's account of a telephone call from AM on 14 June 2012 included AM's alleged statement that the "*final payment 150,00 Euros was wanted*" no later than 17 July 2012, "*because the lawyer was to come to Moscow on that date*". HC did indeed come to Moscow on the 18 July 2012 at IAAF expense (AHR 98). As Sir Anthony says (AHR 98), "*There is no reason to believe that IS and LS would have known that HC was coming to Moscow at that time apart from being told so by AM*". It is not without interest that IS and LS never made the connection between HC and "the lawyer" (IS statement; compare ¶¶31, 34 and 76) which itself further supports the authenticity of their testimony on this point.

- 27) AM has disputed the LS/IS version on the basis, *inter alia*, that he was not in Moscow on 11 January 2012 when the first payment was said to have been made to him (AM Defence ¶26; nor again in Moscow on 18 June 2012 when the second payment was said to have been made to him (AM Defence ¶32)).
- 28) As to his whereabouts on the date of the first payment, it was not until 1 July 2015 that AM sent to Sir Anthony documentary evidence said to support his assertion that he was actually in Sochi at that time (AHR 52); this consisted of a letter of confirmation from the FGBU Sports South Complex and an invoice from the Hotel (Parus) referred to in it. Both documents on their face state that he was at the Hotel from 11 - 14 January 2012. There is no verification of his actual travel by air tickets since he says that he travelled by car for convenience (although the distance from Moscow to Sochi is 1,622 kms). He has also provided to the Panel alibi statements from two witnesses: Russian Walking coaches Mr Nikitin and Mr Nacharkin. These witnesses presented to verify that AM arrived in Sochi on 11 January 2012. Their statements are in all but identical language which somewhat damages their credibility, damage which is compounded by their denials (when questioned on the point) that they collaborated in their drafting and their unconvincing ascription of responsibility for this coincidence to the translator. Furthermore though both accept at the outset of their written statements that they were endeavouring to recollect events of more than three years ago, their statements contain some extraordinary details, for example precisely what articles AM is said to have brought with him in his car, four specific items being listed in exactly the same order in both statements, which further undermines any confidence that the Panel might otherwise have in the truthfulness of their statements. Both state that AM left Sochi on the 13 January 2012 (as indeed does AM's Defence, ¶26), which is inconsistent with the hotel-related documentation. The Panel cannot regard this evidence as a basis for rejecting LS and IS's account of the first payment.
- 29) As to his whereabouts on the date of the second payment, AM has produced to the Panel two documents which are said to confirm that he was in Cheboksary from 17-21 June 2012 at the Russian Junior Championships as a member of the Jury of Appeals (he had originally told Sir Anthony that he could have been, subject to checking documents, at the Russian National Youth Athletics Championships or in Moscow at that time (AHR 31)). The schedule for the Junior Competition (which the Panel is prepared to assume to be what AM intended to refer to) actually shows its dates as being 19-21 June 2012 so that there would have been no requirement for AM to be there on 18 June 2012. The hotel invoice shows on its face that a booking was made from 17-21 June 2012, i.e. 4 nights, but payment made inexplicably for 5. AM responded in oral evidence that Russian hotels

charge for 24 hour periods of stay though it is not clear how this assists him even if correct (the English translation of the invoice provided by AM refers to nights). In any event, it does not follow that he in fact did stay all those nights or 24 hour periods (whichever be the correct temporal unit for charging) whether 4 or 5 (and this apparently gratuitous payment on a lately produced document does cast doubt on its authenticity). The Panel makes the same comment about the guest card required for access to the room. The Panel concludes that it cannot regard this evidence either as a basis for rejecting LS and IS's account of the second payment.

- 30) The Panel has also considered the possibility that LS and IS's own recollection is imperfect. Moreover, admittedly they have changed their version (at least in respect of certain details) once already. But AM puts it far higher. He says that AB's purported correction, in his letter to the Chairman of 27 April 2014, of a twisted timeline in terms of when and to whom the payments were made "*contradicted the proofs available.*" But at that stage there were no contrary proofs; the investigation had not yet started. AM also says that the change in evidence, concerning the exact sums<sup>23</sup> and the person to whom the sums were handed over<sup>24</sup> happened, "*after they had learnt my evidence given to Sir Anthony and proofs shown by me.*" But while it is correct both that Sir Anthony did inform LS and IS that AM claimed he was not in Moscow on 11 July 2012 (AHR 91) and that the revised timetable was only tendered after LS/IS knew of his denial, the documentary evidence said to corroborate AM's denial was not provided to them so LS and IS were not confronted with something which on its face required adjustment to their version in the same way as irrefutable - or even apparently irrefutable - documentary evidence supporting AM's version might have done. The Panel concludes that LS and IS's revision of their evidence as to when and to whom they made the various payments was a simple correction of an initial error. When prompted by knowledge of AM's denial of their original allegation as to his whereabouts on 11 July 2012, they reviewed their own recollection and documentation, e.g. air tickets (AHR91), and their change of account does not reflect anything more sinister.
- 31) AM denies any knowledge of or involvement in any third payment (AHR 101), a denial which for reasons set out both above and below the Panel rejects, but his statement that he was not in Moscow on the date of the third payment (AM Defence, ¶38) is no longer material since, on LS and IS's revised account, it was Mr Lukashkin to whom the cash was handed over.

#### The VB/AM version

- 32) In stark contrast to the LS/IS version summarised in paragraph 21)a) above, stands the version of VB and AM that their role was to do no more than to assist LS to obtain a payment from the (untraced) Mr Bonnot who asked VB to provide LS's bank details, VB in consequence passing the request on to AM, who in turn obtained the details from LS, after which they were then passed back up the line from LS to AM, from AM to VB and from VB to "Mr Bonnot". This version provokes more questions than it answers:

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<sup>23</sup> The discrepancies are *de minimis*: US\$187,000 versus US\$190,000.

<sup>24</sup> I.e. reversing the recipients of the second and third payments from Lukashkin-Melnikov to Melnikov-Lukashkin.

- a) VB wrote on 19 December 2014 that, “ARAФ frequently receives such requests from third parties concerning information about athletes of the national team. The ARAФ acts as a liaison between athletes and third parties and therefore I was not surprised to receive such a request” (AHR 163); and in a later letter on 16 February 2015 VB described it as, “a straightforward administrative matter” (AHR 167).
- b) The request seems to the Panel to be on its face highly unusual and the dealing with it anything but straightforward (VB indeed conceded in his oral testimony that he had never previously been asked for an athlete’s bank details by an unknown individual in which he was to be the conduit through which details were passed back to such an individual). Why did VB not at least enquire as to who it was who wanted to pay LS and required her bank details (intrinsically sensitive information), and why?<sup>25</sup> Why, once LS had been informed of the request, would she not have contacted Mr Bonnot directly to provide her bank details (if she wished to provide them) upon receipt of his email forwarded to her by VB through AM? What need was there for AM and VB to remain links in the chain? It is convenient for VB to describe it as a normal transaction and for AM to make no comment in his letter to Sir Anthony of 20 February 2015 other than that he did what VB asked, because it is necessary for their version to have an innocent explanation for the appearance of their names in the documents arranging and evidencing this bank transfer. The Panel is wholly unpersuaded that this explanation, while convenient, is true.<sup>26</sup>
- c) In a transcript of AM’s interview with the WADA interviewer of 2 July 2012, the interpreter present translated AM as saying, “I contacted LS and her husband and IS sent his bank details and I hand over this bank account to VB. In some period of time, he asked to send the proof of transaction: the one they showed in the film. It was almost nothing to do with me and I didn’t ask questions. I sent this document of payment and several times I telephoned to ask whether the monies arrived. When they told me everything was fine we stopped contacting each other as there was nothing to talk about.” This evidence prompts two questions. If, as VB and AM aver, they were both simply acting as post boxes to elicit LS’s bank details for the benefit of some anonymous payer, why should VB be interested in whether the payment was made (as distinct from whether AM had conveyed on the putative payer’s request)? Similarly why should AM be inquiring of LS several times<sup>27</sup> whether the payment had been made, and abstain from further calls once told that it had been? AM’s account in the transcript of course makes perfect sense if both VB and AM were anxious to know that LS had been paid off so as to make her amenable to acceptance of sanction and prevent further criticism from the IAAF about ARAФ being derelict in its duties. Appreciating, it appeared, the problem that this account caused him, AM went into reverse gear in his oral evidence, suggesting that his true meaning had been lost in translation<sup>28</sup>, that he

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<sup>25</sup> VB never considered whether such an out-of-the-blue request might have, for example, been part of a scam.

<sup>26</sup> The Panel notes too that VB’s account to Sir Anthony of how Mr Bonnot made contact with him underwent several mutations (AHR 234).

<sup>27</sup> Coincident incidentally with IS’s own evidence (AHR 186).

<sup>28</sup> AM suggested that the interpreter had incorrectly translated his comments as saying that he had several times enquired “whether the monies had arrived”. The Panel had AM’s original answer in Russian

could not remember contacting VB about the outcome of the transaction and that his only calls to LS were to ensure that she had received the request for her bank details.

- d) AM's account of the reasons for AB, LS and IS's desire for revenge was clearly explained in his defence at paragraphs 16 - 18:

*"16. Moreover, approximately at that time I as the senior coach of the National team received from other athletes the information that they had also been made some offers by AB not to participate in official competitions, and through him (that is, by signing an agent contract with him) take part in commercial tournaments. Besides, to the best of my knowledge and belief at that time, AB many times offered them to import from the USA prohibited substances manufactured in the USA in order to use them in the course of training, adding that he could procure the recent developments in pharmacology, not included in the WADA Prohibited List; I was also told that AB really imported such substances from the USA to Russia.*

*17. After that I again and again talked to AB and in harsh terms as well, requested him to stop these destructive activities. In his replies AB repeatedly required (in exchange for the fact that he would let his athletes perform at official competitions) that the management of the Centre for athletic training should protect the athletes from anti-doping bodies. I have always given a negative reply to such offers.*

*18. I believe that after that very moment LS and AB desired to take revenge on me for my moral position as the senior coach of the Russian national team."*

- e) But this account was also altered in his oral evidence. Then, LS and AB's appetite for revenge became the product of the tension between LS and AB's desire to exploit her commercial opportunities in big city marathons on the one hand and AM's desire that she should run in championships for the national team where such commercial opportunities did not exist on the other hand; he instanced LS's dropping out of the 10,000m in the European championships in 2010 though fit enough shortly thereafter to run in, and win, the Chicago marathon. The problem with this account, apart from its inconsistency with the original one, is that LS did in fact exploit her commercial opportunities in the years in question. AM may have wished to inhibit her participation but did not succeed in so doing. What reason was there then for revenge?
- f) Although Mr Patsev, VB and AM noted that the alleged "repayment" could simply be fees for LS from her prize money and sponsorship as a runner, there was no evidence to support this. On the contrary, LS had had, by her own standards, a poor 2012 and had not run at all in 2013. Finally, on VB's and AM's own version in their defences there was no actual payment intended for her at all (AM Defence, ¶75; VB Defence, ¶62).

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professionally transcribed and re-translated, which confirmed that AM had indeed said that he had several times enquired whether the monies had arrived.

- g) AM's (abandoned) explanation that LS/IS and AB wanted to take revenge on him because he espoused a "moral" position in relation to doping sits ill with the transcript of a meeting on 20 November 2014 between him, Dr Portugalov, ARAF Chief Medical Officer, and Yuliya Stepanova, a Russian athlete, who covertly recorded it, which can only be interpreted as clear evidence of his own involvement in doping by Russian athletes<sup>29</sup> and its concealment.
- h) The alleged and highly elaborate set up said to have been engineered to discredit AM and VB is not only founded on speculation (called "supposition" in AM's defence) but requires the Panel to accept that AB would adventitiously have known of ITT/Black Tidings and that €300,000 would actually be transferred even though ITT received no funds before making the onward transfer. Nor does ITT explain why he would have sent €300,000 to someone whom he did not know unless put in funds by the person who made the request. He was in his own description a businessman. He was not some gullible innocent likely to be, as he later claimed in a letter of 2 July 2015 (AHR 161) both himself (and Black Tidings), the victim of such a fraud.
- i) The Panel sets out the following extract from paragraph 75 of AM's Defence (replicated in near identical terms paragraph 62 of VB's Defence) to highlight the numerous improbabilities which his account involves:

*"...AB's plan on "solving" the situation went down the drain, and probably in March 2014 it became clear for him that IAAF would necessarily strive for the punishment of LS. Then the scheme on blackening discrediting of AM and VB was made and realized: he just put AM and VB in the real scheme instead of himself, adapting the dates of the so-called money transfer to AM with the dates of the arrivals of the employees of IAAF to Moscow and the dates of the arrivals of the spouses IS and LS that were known to him. Besides having numerous contacts inside IAAF Family across the whole world it wasn't difficult for him to find out who Ianton Tan was, and that he was interested in marketing transactions of IAAF in China and Pacific Region. AB also knew how exactly the work on the athlete's contact information search is made in ARAF in case of the request is received. After that AB (or any other person at his direction) created a fake e-mail box in the name of Jean Pierre Bonnot, and in his name contacted Ianton Tan on the phone, trying to convince him to make a profitable transaction with the request of LS's bank information. I suppose that it was done only for creation of evidence of execution through VB and AM of electronic or any other way of correspondence between the owner of the Singapore company and IS so that there appeared the bank information, some kind of big amounts of sums, so on. Nevertheless at that moment the whole scheme has nearly fell down, since AB didn't take into account the degree of trustfulness of Ianton Tan. AB and IS found out in amazement that Ianton Tan had really transferred to the account of IS 300 000 Euro, without making additional inspection..."*

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<sup>29</sup> The transcript of this is set out in the first WADA IC Report, pages 136-140.

- j) The Panel accepts as compelling two paragraphs of Sir Anthony's Report. At AHR 242<sup>30</sup> he says "*There are a number of serious improbabilities in the accounts of VB and AM: (1) All the VB emails and AM emails relating to the proposed transfer and the transfer have been deleted, both ingoing and outgoing; (2) Bonnot was able to contact VB out of the blue on his gmail address rather than the ARAF address; and (3) The fact that, on the VB account, LS was owed a large sum of money even though she had not competed since the Chicago Marathon and was owed the large sum by someone who did not know how to contact her and instead had to, and was able to, contact VB directly for her details.*" At AHR 245, Sir Anthony says:

*"245. If the account given by VB and AM of the transfer were true, it would follow that LS, IS and Andrey Baranov were setting up VB and AM by doing the following:*

- 1. finding a Jean Pierre Bonnot (now untraceable) and arranging for him to contact VB at the email address valentin1949@gmail.com (and not his official address with the IAAF) with a request to help in the transfer of money to LS in the hope that VB would then ask LS for the details of an account into which the transfer could be made and in the further hope that VB would remain involved in the transfer;*
- 2. sending AM on 15 March 2014 the details of the new IS bank account;*
- 3. arranging for Bonnot to contact Ianton Tan in Singapore, about whose existence they would not have known and who happens to be a business associate of PMD who Andrey Baranov, LS and IS also did not know;*
- 4. by arranging for Bonnot to pretend to Ianton Tan that he knew VB and PMD when making contact with him and by making an anonymous call to Ianton Tan pretending to be PMD in the hope that Ianton Tan would not contact PMD directly and find out the alleged "truth", namely that PMD did not know Bonnot;*
- 5. by arranging for Ianton Tan to make a transfer from Black Tidings to IS of €300,000 without putting Black Tidings in funds either before or after the transfer and taking the risk that Ianton Tan might not make the transfer until the €300,000 money had been transferred to him, with the result that Black Tidings and Ianton Tan were defrauded of €300,000;*
- 6. by arranging for Bonnot to email VB with the confirmation of the transfer in the hope that VB would forward his email and the accompanying bank confirmation to AM who would forward it to LS."*

- k) The Panel emphasises especially the entire unlikelihood of AB having also lit by pure accident on an account of Black Tidings of someone (ITT) who just happened to be a friend and business associate of PMD (that relationship was confirmed by both parties; for ITT see AHR 159 and for PMD see AHR 180).

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<sup>30</sup> On the deletion of the emails, see VB's exchanges with Sir Anthony (AHR 165, 236-237) and AM's correspondence at (AHR 240).

- l) The credibility of this alternative VB/AM version is further undermined when a comparison of AM's defence at paragraphs 71-77 and VB's defence at paragraphs 56-63 not only purport to recreate what actually happened but do so for the most part in all but identical language.<sup>31</sup> It is impossible to conclude other than this was an exercise in collaboration (though VB and AM deny it) and, the Panel concludes, a clumsy concoction as well.
- m) VB's inaction vis-a-vis LS up to 2014 seems overwhelmingly likely to have been the result of the payments made by LS. Although VB claims to have read the letter of 12 June 2012 as requiring action by the IAAF only, and not by ARAF at all, that is belied by the paragraph of the letter which says "*If no explanation is forthcoming from (LS) your federation will be required to proceed with the case as an asserted anti-doping rule violation*" (emphasis added). Indeed, he subsequently conceded to Sir Anthony that he should have acted on that letter (AHR 71). The plain fact is that he did not.

#### PMD

- 33) PMD for his part denies any involvement in the Black Tidings transaction (as well as of the payments allegedly made by LS to enable her to continue to compete). The Panel is wholly satisfied that the payment from Black Tidings must have involved PMD. As Sir Anthony put it at paragraph 250 of his report, "*There is no suggestion that VB knew Ianton Tan, but VB knows PMD [116]. The link between VB and Black Tidings must be PMD who Ianton Tan described as "his personal friend since 2008" and a business associate. PMD confirms that Ianton Tan is a marketing consultant who helped PMD with the PMD Consulting website and is advising PMD "in our sales and sponsor servicing in the People's Republic of China". PMD says: "We are using his services as consultant to service our marketing relationship with Chinese sponsors, broadcasters and the Local Organizing Committee of the Beijing 2015 World Championships....".*" In his letter of 13 June 2015 set out at AHR 159, ITT says (revealingly) that after Mr Bonnot had asked him to make the transfer claiming to be an acquaintance of VB and PMD, "*I subsequently received an anonymous phone call whom I thought was Mr Diack in person verifying that Mr Bonnot was indeed his friend*" (emphasis added). This shows, if nothing else, that he would be and was unsurprised to be telephoned by PMD which itself indicates the strength of their relationship. But his statement that he mistook the caller for PMD is, given that very relationship, unconvincing. In the Panel's view, ITT's story was simply designed to insulate PMD from the transaction. However, the Panel cannot identify any candidate other than PMD who could have caused "Mr Bonnot" (if indeed Mr Bonnot was a real person and not simply a fake name deployed by someone else or even by PMD himself) to trigger the Black Tidings payment. ITT has not been prepared to disclose any supporting details of the account claiming client confidentiality and has asserted that Black Tidings is officially closed (AHR 159).
- 34) The Panel turns to a discrete matter. In November 2014, WADA sent a document to the EC, the relevant extract of which is to be found at AHR 41. It provides:

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<sup>31</sup> See to like effect, AM Defence ¶65 and VB Defence ¶51.

2. On 19 September, Sir Craig Reedie and Mr. Olivier Niggli met with a delegation of the Russian Ministry of Sport composed of the Deputy Minister of Sport, Yuri Nagornyh and a lawyer from the Ministry, Miss Natalia Zhelanova (Miss Zhelanova is known to WADA as she is a member of the WADA Finance Committee).
3. During this meeting we were informed by the Deputy Minister that he had discussion with Mr. Valentin Balakhnichev, President of the All Russia Athlete Federation, (ARAF) who is also the Treasurer of the IAAF.
4. The Deputy Sport Minister, Mr. Nagornyh, informed us that he was willing to share with us the information he had received from Mr. Balakhnichev.
5. This information can be summarized as follows:
  - Since 2011 ARAF has been blackmailed by IAAF.
  - A system was put into place at the IAAF level under which athletes with an abnormal blood passport profile would be allowed to keep competing at high level in exchange of cash payments made to the IAAF.
  - In Russia, this would concern at least six athletes identified as follows:
    - o Liliya Shobukhova
    - o Valeriy Borchin
    - o Olga Kaniskina
    - o Sergey Kirdyabkin
    - o Yevgeniya Zolotova
    - o Vladimir Kanayakin
  - For these six athletes, despite abnormal profiles having been identified for each by IAAF, no result management or follow up took place by IAAF.
  - According to Mr. Balakhnichev the system was introduced and orchestrated by the son of the IAAF President and his lawyer, Mr. Habib Cisse, with the help of some people within the IAAF anti-doping department.
  - The system was in place not only in Russia, but, potentially, in other countries such as Morocco and Turkey.
  - The money was apparently paid by the athletes' agents to ARAF and then given to IAAF.

- 35) The Panel notes that the information said to emanate from VB, if correct, confirms that:
- a) LS (amongst other Russian athletes) made payments as a price of suppression of her AABPP, so enabling her to continue to compete;
  - b) such payments were made in cash;
  - c) the payments were initially made to ARAF before being passed on to the IAAF;
  - d) in consequence, no result management or follow up took place;

- e) the system was implemented by the son of the IAAF President, HC and unnamed persons within the IAAF anti-doping department.
- 36) All these points are congruent with LS/IS's version, with the sole and significant difference that the villains of the piece in the account of the Russian Sports Minister are all connected with the IAAF not ARAF, who, although a conduit pipe for the payment and party to the cover-up, were characterised as the victims of IAAF blackmail.
- 37) VB denies that he gave to the Russian Sports Minister any such information. But, first, he has been unable, despite his initial promise, to have his denial corroborated by the Minister (AHR 44). Second, his explanations (i) that Sir Craig Reedie and Olivier Niggli of WADA misunderstood what the Minister told them (AHR 43) or (ii) that the Minister was seeking to deflect criticism of the Russian authorities (AHR 44) are inconsistent with each other. The former lacks credibility given the stature of the WADA persons involved in the meeting, the importance of the meeting and the clarity of their recorded recollection; the second is plausible, but only on the basis that VB was party to this attempt to deflect; from whom else would the Minister have obtained information which, though partial, was detailed, for example in its identification of the begetters of the scheme? VB proposes no other candidate as informant. The Panel asks itself why the Minister should gratuitously – and on VB's hypothesis falsely – identify VB as his source. The Panel cannot conceive of a rational answer.
- 38) It is the Panel's view that this was an attempted pre-emptive strike by VB, aware already of the nature of the case against him being considered in Sir Anthony's investigation. The fact that he made such an effort at all is itself inculpatory.
- 39) There is one further matter to be evaluated in the context: the meeting which took place in December 2012 in Moscow between PMD, HC and VB. There is a curious divergence in the evidence about the date of such meeting.
- 40) AB says it took place on 4 December 2012 in the Kempinski hotel to which he says he was summoned by AM. The meeting was, according to him, attended by VB and two persons (i) an IAAF legal adviser and (ii) a chubby man appearing to be of African descent who was not very tall (AHR 112). AM agrees that such a meeting took place attended by VB, HC and PMD (AM Defence 39). VB also agrees that such a meeting took place attended by himself HC and PMD<sup>32</sup> (AHR 116-117).
- 41) PMD accepts that he had a meeting with VB and HC in Moscow but says it was on 6 December 2012 not 4 December 2012 and he has produced an air ticket and passport entry to corroborate that he only came to Moscow on 5 December 2012 (AHR 115).
- 42) It is not possible to resolve the discrepancy in terms of evidence as to the date of the meeting. On the one hand (i) it is not easy to see why any of VB, AM or AB should lie about the date, or, indeed be mistaken about it; (ii) VB confirmed the date twice to Sir Anthony (AHR 116) (iii) AB, who originally made a mistake as to the year (i.e. locating it

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<sup>32</sup> And not, for example, some other man appearing to be African or of African descent.

in December 2011 not 2012) checked his travel receipts before revising his statement on this point; (iv) AB's revised statement is indeed corroborated by his travel confirmations (AHR 113); (v) there is some overlap between AB's and VB's account of the circumstances surrounding the meeting, for example that AB was at the hotel but did not participate in the meeting and that AM gave HC and AB a lift back to their respective hotels and (vi) HC was indeed in Moscow between 3 and 7 December 2012 (AHR117) though this is itself neutral. On the other hand, there are PMD's ticket and passport entry, which have not been suggested to have been forged. It is not, the Panel adds, in theory inconceivable that PMD could have been in Moscow on 4 December 2012, left Moscow on the same date and returned the next day, but there is no evidence to that effect.

- 43) All the participants in the meeting, whenever it was, say that it was about commercial matters (though there is some divergence as to the detail of such matters in their accounts), unconnected with the LS affair. AB's account set out at AHR 112 (if accepted as accurate, dates apart) does tend to suggest that the meeting was about how to deal with the LS problem. Again, AB's account is remarkably qualified. AB does not claim to have been able to identify either the lawyer or the African gentleman, when he saw them in the Kempinski hotel. Given that by the time he made his statement to Sir Anthony he did know who he believed the African gentleman to be, if he wished to lie he could have claimed to have identified him at the time of the meeting itself<sup>33</sup>. That he did not do so suggests care rather than contrivance in his testimony. Moreover, it is noteworthy that according to IS it was while LS was at training camp in December 2012 that she was told by AM that she would need to pay more money to compete (AHR 110).
- 44) In the context of all the other evidence discussed in this Decision that HC, VB and PMD were involved in the payments made by LS and IS, it is a possible inference, at the very least, that exaction of more money was one of the themes of the discussion at the meeting, whenever precisely it took place. It can at the very least be said that the fact of the meeting between HC, VB and PMD indicates a relationship between them. Applying the criminal standard of proof, and given the various unresolved issues surrounding it, the Panel is not prepared to give more weight to the meeting than that. It is certainly not, as was argued on his behalf, exculpatory of PMD. The meeting was itself only ancillary to the main case against him; and it does not show AB to be a liar (see ¶¶42) and 43) above).
- 45) The Panel have considered separately whether, notwithstanding PMD's involvement in the €300,000 transaction, he may not have been privy to the original payments and indeed himself been a recipient of the monies which had to be repaid. It has concluded that he must not only have been privy to those payments<sup>34</sup> but himself a beneficiary of them for the following reasons.
  - a) PMD was clearly involved in the repayment as already explained (see ¶33) above). The most obvious explanation for his involvement is that it was the same as the

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<sup>33</sup> As to HC, AB says he "later found out" that he was the lawyer (AHR 112).

<sup>34</sup> Which would in fact be sufficient for the purposes of the charge against him.

reason for VB's and AM's involvement, i.e. that he was making partial restitution of moneys originally extorted.

- b) It is difficult to conceive of an alternative explanation which makes any sense at all. Why should PMD involve himself in such repayment other than for the reason set out in paragraph 44) a) above? No plausible alternative explanation has been advanced. To put it shortly, what was in it for him unless, like VB and AM, he was seeking to make repayment of sums he had himself been paid?
- c) It was always open to PMD to advance some alternative explanation but he did not do so through Counsel or otherwise. If PMD's explanation had been other than in a) above his Counsel could have (indeed should have) put it to VB and AM when each was giving evidence so as to see whether either accepted it or rejected it and, if the latter, why. But his Counsel did not do so, and he could not properly have done so for the simple reason that those were not Counsel's instructions. Counsel's instructions from PMD were that PMD was not involved in the payment of the €300,000 at all (see AHR 179 and 250 PMD Defence, ¶¶18 and 33). Counsel would not be allowed to advance an explanation inconsistent with his client's instructions whose mouthpiece he was; to do so could amount to professional misconduct (and PMD's Counsel was very careful not to put forward any positive case).
- d) If PMD was lying about his non involvement (and it could only be a lie, not a failure of recollection) the Panel again asks why. Again, the obvious explanation is that he was trying to distance himself from the extortion and again the Panel struggle to conceive of any remotely plausible alternative explanation.
- e) In the particular context of the EC's Procedural Rules, PMD's false claim of absolute non involvement in the repayment is yet more significant. The rules, set out in paragraph 13) (iii) above which are particularly relevant are that (a) the Investigator's report is itself evidence on which the Panel can rely (b) an adverse inference can be drawn from a defendant's (here PMD's) refusal of a reasonable request to attend a hearing. Sir Anthony's report makes crystal clear that the case against PMD was that he was party to an agreement that, if LS paid money, no disciplinary action would be taken against her in respect of her AABPP (AHR 294).
- f) This being the case PMD's failure to answer the case against him other than by an outright denial (which the Panel has rejected) of any involvement in the €300,000 transaction entitles the Panel under the Rules to draw the inference that he is unable to meet it. He has denied the Panel without any good or sufficient, or indeed any, reason (he has given none), the opportunity to ask him questions by his declining to attend the hearing (unlike VB and AM) by video link or to answer questions (until the belated offer to respond to written questions). It would be bizarre if PMD could take advantage of his deliberate absence by asserting that in consequence the evidence is inadequate to sustain the Investigation Report's conclusions in circumstances where a case to answer had been established against him.

- g) Sir Anthony also refers (AHR 294) to the WADA record of the meeting (quoted at AHR42) with the Russian Sports Minister, where the son of the IAAF President (who could only be PMD<sup>35</sup>) and HC were said to have orchestrated a plan to extract moneys from athletes who wished to avoid having sanctions applied in consequence of their abnormal blood profiles. The WADA memorandum (AHR 41) is, as the Panel has already explained, highly significant (see ¶¶36 - 38) above). Given that the Panel is sufficiently certain that VB sought to inculpate PMD and HC (see ¶¶37 - 38) above), his references to PMD and HC require explanation. Why were those two mentioned? Again, the only plausible answer is that they were in fact parties to the conspiracy described, to which VB was also a party, and that VB, after the ARD television allegations had been made public, was trying to divert **all** blame to the IAAF and thus to absolve ARAF from **any** blame. That effort at diversion could only have any chance of success if VB pointed the finger at persons who he knew were indeed involved in the system; to name persons who were not involved would have been useless. Although HC is not one of the Defendants, there is much evidence *prima facie* linking him with the scheme to delay sanctions against Russian athletes; note in particular the constant references by IS, LS and AB to payments to "the Lawyer", and HC, as is documented in Sir Anthony's Report, was often in Moscow at relevant times and directly, but anomalously, involved in the management of the Russian AABBPP cases. So if HC was involved in extortion (as VB claimed to know and told the Minister) the Panel cannot conceive why VB should gratuitously mention PMD in the same breath unless he (VB) knew the same about him (PMD). The Panel can fairly and reasonably infer that those who orchestrated such a system were certainly not doing so pro bono.
- h) In *Attorney General for Jersey v Edmond-O'Brien*,<sup>36</sup> the Privy Council said "*It is in the nature of circumstantial evidence that single items of evidence may each be capable of an innocent explanation but, taken together, establish guilt beyond reasonable doubt*" (paragraph 25). Wigmore, in his classic treatise on the law of evidence, used the metaphor of strands in a cable to the same effect. The Panel recognizes that a similar approach to reliance on circumstantial evidence is to be found in many mature legal systems. As far as the issue presently under review is concerned, the cumulative weight of the considerations set out in paragraphs 45)a) - g) above convinces the Panel that PMD was no innocent bystander but was not only involved in the scheme to extort moneys from LS but profited from it. As Sir Anthony said at AHR 294, "*It would seem inconceivable that PMD became involved only at the transfer stage in 2014. His involvement in the transfer and his role according to the account given by VB said [sic] to the Deputy Sports Minister satisfy me that there is a realistic prospect that the Ethics Commission will find that PMD was party to an agreement that, if LD paid money, no disciplinary action would be taken.*" The Panel does so find.

46) The Panel has borne in mind throughout that:

- a) LS has used prohibited substances to enhance her athletic performances.<sup>37</sup>

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<sup>35</sup> See the other evidence; VB saying he met PMD and HC on 4<sup>th</sup> December 2012, PMD saying he met VB and HC on 6<sup>th</sup> December 2012, PMD's connection with ITT. No other son of President LD has featured in the evidence at all.

<sup>36</sup> *Attorney General of Jersey v Edmond-O'Brien* (Privy Council) [2006] 1 WLR 1485.

<sup>37</sup> See ¶4 of her Answer to the IAAF appeal to CAS.

- b) She and IS have previously denied such use on several occasions.
  - c) Their version of material events has undergone at least one change.
- 47) All these factors require the Panel to treat their evidence with circumspection. But having done so, it finds that their version fits the many pieces of the jigsaw together whereas VB/AM's version does not.
- 48) The Panel also notes that ARAF made a complaint against AB to the Ethics Commission by letter dated 13 April 2015, making various points said to undermine his credit. It was not, however, for whatever reason, pursued (AHR 221). VB has suggested that AB has a "*long standing grudge against ARAF*" (AHR 225). AM has spoken of AB's "*disgusting reputation in the world of athletics*" (AHR 226). The Panel notes, however, that AB's key statements are all but entirely dependent upon the veracity of LS and IS.
- 49) In summary, the LS/IS version of events has the ring of truth entirely consistent as it is with the undisputed facts and the key documentation. The VB/AM version does not cohere with those facts but is rather riddled with implausibilities, inconsistencies, transparent lies and dubious documents. PMD's version is also lacking in any plausibility and is further undermined by his refusal to expose himself to any meaningful questioning.
- 50) The quality of the breaches determined as proven by the Panel need no hyperbolic exaggeration; they speak for themselves. On the Panel's findings the head of a national Federation, the senior coach of a major national team and a marketing consultant for the IAAF conspired together (and, it may yet be proven with others too) to conceal for more than three years anti-doping violations by an athlete at what appeared to be the highest pinnacle of her sport. As to the first two, VB and AM, their actions were the antithesis of what was appropriate. Far from - as they should have - supporting the anti-doping regime, they subverted it, and, in so doing, allowed LS to compete in two marathons when she should not have done so, to the detriment of her rivals in those races and the integrity of the competition. As to the third, PMD, he had no functional responsibilities in the anti-doping regime but equally no justification at all for subverting it. All three compounded the vice of what they did by conspiring to extort what were in substance bribes from LS by acts of blackmail. They acted dishonestly and corruptly and did unprecedented damage to the sport of track and field which, by their actions, they have brought into serious disrepute.

#### The Charges against VB, AM and PMD

- 51) No submission was directed to the Panel (and in its view rightly so) that even if the facts said to support the charges were made out, they did not support the charges as drafted. The Panel is therefore content, without further gratuitous repetition or elaboration, to express its conclusion that all the charges (which are set out in the notices of charge

appended to this decision as Appendix A) are made out on the basis of the facts as found in this decision.

## GD

- 52) In GD's case the matter is simpler. The Panel finds that by December 2011 the IAAF Anti-Doping Department had sufficient information to take disciplinary action against LS. Such information remained unchanged from that date until March 2014 when, for the first time, such disciplinary action was actually initiated. There is no evidence of the IAAF Anti-Doping Department taking any formal steps about LS's case until GD sent the letter of 12 June 2012<sup>38</sup> to VB, hand delivered by HC to VB (AHR 66, 67).
- 53) There was no immediate follow up to that letter. Contrary to what GD says he anticipated on the basis of assurances from VB (AHR 77), LS did take part in the London 2012 Olympics. VB has said that this was as a result of an agreement between himself, HC and GD that given the imminence of the Games themselves and the absence of any formal charges having been brought against LS, any action against LS could be postponed (AHR 71). GD denies that any such agreement was made (AHR 77, 124, 270). The Panel is not in a position currently to determine where the truth lies on this matter, although it notes that VB admitted to the Investigator that the "*potential anti doping violation ought to have been pursued more promptly than it was*" (AHR 71, 73) and GD in his oral testimony to the Panel made the same concession.
- 54) The critical fact is GD did not take any further steps to prevent LS's participation in those Olympics. Nor did he take any steps, even after that event, which he said concerned him, to ensure that there was no repetition. At all material times he had in right of his office the power to impose a provisional suspension on LS. Yet, despite the prompting of his deputy TC, he neither acted nor explained his inaction (AHR 88, 104). LS was thus able to participate in a marathon for the second time in 2012 in Chicago. Even allowing for the fact that LS's pregnancy meant that she would not compete in 2013, there was no inhibition on instituting a disciplinary process. The failure to take meaningful action on GD's part until 2014<sup>39</sup> was itself a patent dereliction of duty.
- 55) What caused this inaction? The belated explanation volunteered by GD for the first time on the eve of the hearing was that he was told that LD, HC and VB had agreed that the handling of the Russian cases including that of LS should be drawn out in order not to put in jeopardy an important sponsorship deal for the next IAAF World Championships due to take place in Moscow in 2013 and that LD had asked GD to find a way to manage the cases discreetly to avoid bad publicity which could risk losing an important sponsor (the Russian bank VTB).<sup>40</sup> VB in his oral evidence disputed the existence of any such agreement and pointed out that GD's functions had nothing to do with marketing or sponsorship. That is no doubt correct but does not establish that GD would not be told of

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<sup>38</sup> Earlier drafts of that letter were not sent (AHR 57-60).

<sup>39</sup> By letter of 3<sup>rd</sup> March 2014 (AHR 135,136). By now GD would have been alerted to the fact that the cat was all but out of the bag, see SWJ's reference to his discussion with GD on 26<sup>th</sup> February 2014 (AHR 129).

<sup>40</sup> Sir Anthony was not aware of this explanation at the time he wrote his report so focussed, as did the charge against GD, on the period after June 12<sup>th</sup> 2012.

such agreement. Moreover there is at least some corroboration of GD's explanation in the evidence of HR then legal adviser to the IAAF who told the Investigator (AHR120) that President LD had admitted that there was an agreement to delay dealing with Russian AABPP athletes to avoid negative impact on the Moscow championships. Those instructions which, on his admission, caused GD to delay dealing with the LS case were, if given, instructions which he should not have obeyed. To the extent that he was pressured, manipulated and misled by other more senior and powerful figures that may be mitigation (albeit that it is identified by GD very late in the day), but cannot be a defence. GD was a senior member of staff, entrusted with very significant responsibilities within a global framework of an anti-doping system at the apex of which sits WADA. It was not open to him to disregard his responsibilities, even on instructions from his superiors within the leadership of the IAAF. On any view he did too little and what he did was done - in 2014 - too late.

- 56) Before the Panel the allegation (and supporting evidence) against GD did not include receipt of any monies from LS. The Panel is, however, aware of reports that the French prosecuting authorities may have evidence that he too had a share in them. Were that to be established - and the Panel should also in fairness note GD's express denial - it might be necessary to consider revisiting his case, a matter which the Panel at the hearing expressly drew to his attention. For the purposes of the present decision, however, the Panel have disregarded these reports.
- 57) The charge against GD shares that element in the charges against the other three Defendants of acting in a manner likely to tarnish the reputation of the IAAF and in a manner like to bring the sport of athletics into disrepute. In his case its core is an inexcusable lack of due care and diligence rather than of corruption. The Panel again is content to say that the single charge against him (as set out in the notice of charge appended to this decision at Appendix A) is made out.

#### Sanctions

- 58) The provisions on sanctions are set out in the Rules, as follows at paragraph D17 of the Statutes of the EC:

#### *"D Sanctions*

*17. The Ethics Commission shall have the following powers to be exercised in accordance with the Procedural Rules where applicable:*

- (i) to caution or censure;*
- (ii) to issue fines;*
- (iii) to suspend a person (with or without conditions) or expel the person from office;*
- (iv) to suspend or ban the person from taking part in any Athletics- related activity;*
- (v) to remove any award or other honour bestowed on the person by the IAAF;*

- (vi) to impose any sanctions as may be set out in specific Rules; and
- (vii) to impose any reasonable sanction that it may deem to be appropriate, including community service within athletics and/or restitution;

..."

- 59) The Panel considers in the light of its findings that VB, AM and PMD should be banned for life from any further involvement in any way in the sport of track and field; any lesser sanction would not meet the gravity of their offences. In GD's case such ban is also appropriate but in his case for 5 years only; his sins were those of omission, not commission. The Panel hereby imposes these bans with effect from the date of this decision.
- 60) The Panel considers that it would be appropriate also to mark the gravity of their offences by imposing fines as follows:
  - a) VB: US\$25,000.
  - b) PMD: US\$25,000.
  - c) AM, whose role seems, given his lower place in the ARAF hierarchy compared to that of VB to have been mainly, if not merely, ministerial: US\$15,000.

The Panel sees no need to do the same in the case of GD; the declaratory effect of its finding (coupled with the ban) is proportionate punishment.

#### Costs

- 61) The total procedural costs incurred by the EC in connection with this matter amount to US\$170,372.
- 62) The Panel considers pursuant to Rule 16(2) that each Defendant should pay 25% of those costs, amounting to US\$42,593 each.
- 63) The fines and costs set out above should be paid within 28 days of the date of this decision.

#### Postscript

- 64) The Panel is aware that the French police are investigating PMD and GD. The Panel considered whether to adjourn the hearing until the conclusions of the criminal process, but decided not to do so. The Panel received no request for such an adjournment from any of the Defendants. Nor did the Panel consider of its own motion that it would be appropriate to adjourn the hearing because of the French police investigations. The Panel understands that civil and disciplinary proceedings are often conducted in France

notwithstanding the possibility or pendency of criminal proceedings. The same considerations apply, *mutatis mutandis*, to the Panel's rejection of the possibility of adjourning until publication of the second WADA IC report, due apparently on 14 January 2016.

- 65) In any event, the IAAF has its own sporting interest in ensuring via the EC that alleged breaches of its Code are handled as expeditiously as possible in accordance with the EC's governing instruments. These are separate to the public interest in dealing with breaches of the criminal law. Moreover, although criminal courts can impose penalties beyond the powers of the Panel, for example imprisonment, they cannot impose sports-specific sanctions such as bans. The Panel could therefore see no reason to delay further until the criminal charges had been disposed of, whenever that might be, even though further information might at that juncture come to light.
- 66) The Panel would add that if the French police investigation reveals relevant information which is put into the public domain or passed to the EC or if the conclusion of any criminal proceedings relating to PMD or GD (or indeed to VB or AM) reveals further breaches of the Code, the EC will determine at that time whether to set in motion its own processes. The same applies *mutatis mutandis* to any evidence contained in the forthcoming second WADA IC report relating to those persons.
- 67) As is not always well understood, the time which has been taken to deal with the initial complaint (which itself, under the rules before revision, defined the ambit of the investigation and consequent charges<sup>41</sup>), is explained (i) by the fact that the EC lacks any coercive power of the kind enjoyed by public authorities, in particular the police, over parties, potential witnesses and documents; (ii) by the need to ensure that persons such as the Defendants are given, in accordance with the first rule of natural justice, the fullest opportunity to meet the case against them; and (iii) by the desirability of the fullest feasible investigation and ascertainment of the relevant facts by its own investigator.
- 68) Additionally, the Panel is aware that the French police are also investigating HC and LD, who were not the subject of the initial complaint. HC is currently being investigated by Sir Anthony as well<sup>42</sup>. The Chairman of the EC has also determined, pursuant to Procedural Rule 13(4), that an investigation should be commenced into LD<sup>43</sup>. It should be emphasised that at present no breach of the Code is proven against either.

### Appeals

- 69) As required by the Rules (see Procedural Rule 13(25) and paragraph A4 of the Code of Ethics), the Panel informs the Defendants of their right to appeal this Decision to the Court of Arbitration for Sport.

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<sup>41</sup> Since 26th November 2015 the EC has more flexible and more useful powers. See EC Chairman's statement of 29 November 2015 on the EC's website.

<sup>42</sup> See AHR 296-302 for the evidence so far available "said to implicate" HC.

<sup>43</sup> See, *inter alia*, paragraph 55) above. Procedural Rule 13(5) may also be germane to the progress of the investigation.

**The Honourable Michael J Beloff QC (Chairman)**

**Mr Akira Kawamura**

**Mr Thomas Murray**

**7 January 2016**

## Appendix A - Charges

**VALENTIN BALAKHNICHEV**

**NOTIFICATION OF CHARGE OF BREACH OF THE IAAF CODE OF ETHICS**

1. In accordance with Rule 13(14) of the IAAF Ethics Commission's Procedural Rules ("PR"), this document provides you with written notice of the following matters:
  - a. The fact that you have been charged with a case to answer for breaches of the IAAF Code of Ethics.
  - b. The specific violations of the Code that you are alleged to have committed.
  - c. Details of the alleged acts and/or omissions relied upon in support of the charge;
  - d. The range of sanctions applicable under the Code if it is established that you have committed the violation.
  - e. The timing for you to file your written submissions.
  - f. You may be provisionally suspended from any relevant position which you hold or may come to hold in the sport of athletics.

**(A) Case to Answer**

2. On 1 July 2014 you were notified that the Chairman of the Ethics Commission had concluded that there is a *prima facie* case that you have breached the IAAF's Code of Ethics and that the Chairman had determined to appoint The Right Honourable Sir Anthony Hooper to investigate the *prima facie* case against you.
3. Subsequently, Sir Anthony has been in direct contact with you during the course of his investigation.
4. Sir Anthony has now completed his investigation and provided the Ethics Commission with a final investigation report (the "**Investigation Report**") in accordance with rule 13(9) of the Ethics Commission's Procedural Rules ("PR"). The Investigation Report recommends that the case against you should proceed to adjudication. A copy of the Investigation Report is attached to this notification.
5. Following receipt of the Investigation Report, the Chairman of the Ethics Commission appointed a member of the Commission, Mr Kevan Gosper, to review the Investigator's final report and investigation files in accordance with PR rule 13(10).
6. Mr Gosper concluded that there is sufficient evidence for the case against you to proceed to adjudication, and so notified the Chairman in accordance with PR rule 13(12).

7. Also in accordance with PR rule 13(12), the Chairman has now directed that adjudicatory proceedings be commenced against you as you have a case to answer in respect of the charge of breach of the Code of Ethics set out in accordance with PR rule 13(14) in this Notification of Charge.

**(B) Specific Violation Alleged**

8. The specific violations alleged against you are as follows:
  - a. Breaches of Articles C7 and H17 read together with Article C4 of the Code of Ethics in force during the period from 2003 to 30 April 2012 and committed during that period.
    - i. Those Articles provide as follows:

*"C7 All persons subject to this Code shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."*

*H17 It is the duty of all persons under this Code to see to it that IAAF Rules and the present Code are applied.*

*C4 Fair play is the basic guiding principle in the sport of Athletics."*
  - ii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 303(1)(a) – (b)):
    1. That you participated in an agreement with Alexei Melnikov, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money;
    2. You failed to report to the IAAF that Lilya Shobukhova had paid money to Alexei Melnikov to enable her to compete.
  - b. Breach of Articles C8 and H18 read together with C4 of the Code of Ethics in force during the period 1 May 2012 until 8 August 2013 and committed during that period.
    - i. Those Articles provide as follows:

*"C8 All IAAF Officials shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."*

*H18 It is the duty of all persons under this Code of Ethics to see to it that IAAF Rules and this Code of Ethics are applied.*

*C4 Fair play is the basic guiding principle in the sport of Athletics."*

ii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 303(2)(a) - (e)):

1. You decided that the various actions required of you and ARAF in the letters of 12 June 2012, 3 December 2012 and 15 February 2013 would not be carried out;
2. You failed to take the required measures to ensure that any necessary disciplinary procedures be instituted promptly against Lilya Shobukhova in the light of the letter of 12 June 2012 and of the accompanying documents;
3. You failed to take the necessary steps to prevent Lilya Shobukhova from competing in the 2012 London Olympic Marathon on 5 August 2012 and in the 2012 Chicago Marathon on 7 October 2012;
4. You participated in an agreement with Alexei Melnikov, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money; and
5. You failed to report to the IAAF that Lilya Shobukhova had paid money to Alexei Melnikov to enable her to compete.

c. Breach of Articles C1(11), (12) and (14) and D1(24) of the Code of Ethics which was in force from 1 January 2014 to 30 April 2015 and committed during that period.

i. Those Articles provide as follows:

*"C1(11) Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.*

*C1(12) "Persons subject to this Code shall act with utmost integrity, honesty and responsibility in fulfilling their respective roles in the sport of Athletics.*

*C1(14) "Persons subject to the Code shall not ... engage in ... corrupt conduct in accordance with the Rules against Betting, Manipulation of Results and Corruption (Appendix 2)." Rule 10(b) of those Rules provides that the following is a violation under the Rules: "Knowingly ... covering up ... any acts ... of the type described in these Rules". Under Rule 7, this includes Bribery as therein described.*

*D1(24) "IAAF Officials shall use due care and diligence in fulfilling their roles for and on behalf of the IAAF."*

ii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 303(3)(a) – (b):

1. You failed to report to the IAAF that Lilya Shobukhova had paid money to Alexei Melnikov to enable her to compete;
2. In the knowledge that payments had been made by Lilya Shobukhova to Alexei Melnikov, you were involved in an attempt to cover up what had happened including by:
  - a. Trying to obtain the silence of Lilya Shobukhova and Igor Shobukhov by the repayment to her via Singapore of €300,000 in March 2014;
  - b. Trying to persuade Lilya Shobukhova to sign an acceptance of sanction and then being involved in, or knowing about, the production of a forged signed acceptance of sanction;
  - c. Giving Lilya Shobukhova no notice of the 9 April 2014 ARAF Anti-Doping Commission hearing.

#### **(C) Details of the Alleged Acts and Omissions Relied Upon**

9. The Commission refers you to the Investigation Report in its entirety. In particular, the Commission refers to paragraphs 222-302 and 303-304 of the Investigation Report. The acts and omissions relied upon in support of the charges against you are those set out in paragraphs 8.a.ii, 8.b.ii and 8.c.ii above.

#### **(D) Range of Sanctions**

10. The range of sanctions open to the Commission to impose under the Code if it is established that you have committed the violation are set out at Section D17 of the Statutes of the Ethics Commission, as follows:
  - a. Issuing a caution or censure;

- b. Ordering you to pay a fine;
- c. Suspending you (with or without conditions) or expelling you from any relevant office held;
- d. Suspending or banning you from taking part in any Athletics-related activity, including Events and Competitions;
- e. Removing any award or other honour bestowed on the person by the IAAF;
- f. Imposing any sanctions as may be set out in specific Rules; or
- g. Imposing any other sanction that the Panel may deem to be appropriate, including community service within athletics and/or restitution.

#### **(E) Timings and Other Matters**

- 11. A Panel of the Ethics Commission has been duly constituted to determine the charges in this case. The Members are as follows:
  - a. The Honourable Michael Beloff QC (Chairperson of the Panel)
  - b. Mr Akira Kawamura
  - c. Mr Tom Murray
- 12. As set out in the covering letter to this Notification of Charges, in accordance with PR rule 13(17) the Chairman has fixed the following time limits:
  - a. Briefs containing any defence of lack of jurisdiction or a defence on the merit to be filed with the Commission by **4pm on Monday 5 October 2015**.
  - b. Notification whether you request an oral hearing to be filed with the Commission by **4pm on Monday 5 October 2015**.
  - c. Any evidence upon which you intend to rely, including a list of all witnesses you will call, together with written statements of evidence to be filed with the Commission by **4pm on Monday 19 October 2015**.
- 13. For the avoidance of any doubt all documents are to be filed by 4pm UK time (GMT).
- 14. All communications should be sent to me as Legal Secretary of the Commission by email, fax, or post using the contact details below. Likewise, all documents to be filed with the Commission should be sent to me by the same methods.

**Tom Mountford**

**Legal Secretary to the IAAF Ethics Commission**

**Email:** [tommountford@blackstonechambers.com](mailto:tommountford@blackstonechambers.com)

**Fax:** +44 20 7822 0853

**Address:** Blackstone Chambers

Blackstone House

Temple

London EC4Y 9BW

14 September 2015

**ALEXEI MELNIKOV**

**NOTIFICATION OF CHARGE OF BREACH OF THE IAAF CODE OF ETHICS**

1. In accordance with Rule 13(14) of the IAAF Ethics Commission's Procedural Rules ("PR"), this document provides you with written notice of the following matters:
  - a. The fact that you have been charged with a case to answer for breaches of the IAAF Code of Ethics.
  - b. The specific violations of the Code that you are alleged to have committed.
  - c. Details of the alleged acts and/or omissions relied upon in support of the charge;
  - d. The range of sanctions applicable under the Code if it is established that you have committed the violation.
  - e. The timing for you to file your written submissions.
  - f. You may be provisionally suspended from any relevant position which you hold or may come to hold in the sport of athletics.

**(A) Case to Answer**

2. On 19 December 2014 you were notified that the Chairman of the Ethics Commission had concluded that there is a *prima facie* case that you have breached the IAAF's Code of Ethics and that the Chairman had determined to appoint The Right Honourable Sir Anthony Hooper to investigate the *prima facie* case against you.
3. Subsequently, Sir Anthony has been in direct contact with you during the course of his investigation.
4. Sir Anthony has now completed his investigation and provided the Ethics Commission with a final investigation report (the "**Investigation Report**") in accordance with rule 13(9) of the Ethics Commission's Procedural Rules ("PR"). The Investigation Report recommends that the case against you should proceed to adjudication. A copy of the Investigation Report is attached to this notification.
5. Following receipt of the Investigation Report, the Chairman of the Ethics Commission appointed a member of the Commission, Mr Kevan Gosper, to review the Investigator's final report and investigation files in accordance with PR rule 13(10).
6. Mr Gosper concluded that there is sufficient evidence for the case against you to proceed to adjudication, and so notified the Chairman in accordance with PR rule 13(12).

7. Also in accordance with PR rule 13(12), the Chairman has now directed that adjudicatory proceedings be commenced against you as you have a case to answer in respect of the charge of breach of the Code of Ethics set out in accordance with PR rule 13(14) in this Notification of Charge.

**(B) Specific Violation Alleged**

8. The specific violations alleged against you are as follows:

- a. Breaches of Articles C6 read with C4 and H18 of the Code of Ethics in force during the period from 2003 to 30 April 2012 and committed during that period and a breach of Rule 9(7) of the Rules against Betting and other Anti-Corruption Violations.

- i. Those Articles of the Code of Ethics provide as follows:

*"C6 "corrupt practices relating to the sport of Athletics by ... Participants, including improperly influencing the outcomes and results of an event or competition are prohibited" and "in particular ... corrupt practices by Participants under Rule 9 of the IAAF Competition Rules are prohibited." Rule 9.7 prohibits bribery, which is defined as: "Accepting ... any bribe ... to influence improperly the result, progress, outcome, conduct or any other aspect of an Event or Competition.*

*C4 Fair play is the basic guiding principle in the sport of Athletics.*

*H18 It is the duty of all persons under this Code of Ethics to see to it that IAAF Rules and this Code of Ethics are applied."*

- ii. Rule 9.7 of the Rules against Betting and other Anti-Corruption Violations prohibits bribery, which is defined as, "Accepting ... any bribe ... to influence improperly the result, progress, outcome, conduct or any other aspect of an Event or Competition.

- iii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 306(1)(a) – (b)):

1. You took from Lilya Shobukhova the equivalent of €300,000 to enable her to compete notwithstanding her atypical Athletic Biological Passport profile, which taking constituted:

- a. A corrupt practice; and

- b. The acceptance of a bribe to influence improperly the result, progress, outcome, conduct or any other aspect of the

London Olympics Marathon 2012 and/or the Chicago Marathon 2012.

2. You participated in an agreement with Valentin Balakhnichev, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money.
- b. Breach of Articles B8, C1(11), C1(12) and C1(14) of the Code of Ethics in force during the period 1 January 2014 until 30 April 2015 and committed during that period.
  - i. Those Articles provide as follows:

*"B8 Persons subject to the Code shall immediately report any breaches of the Code to the Chairperson of the IAAF Ethics Commission*

*C1(11) Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.*

*C1(12) Persons subject to this Code shall act with utmost integrity, honesty and responsibility in fulfilling their respective roles in the sport of Athletics.*

*C1(14) Persons subject to the Code shall not ... engage in ... corrupt conduct in accordance with the Rules against Betting, Manipulation of Results and Corruption (Appendix 2)." Rule 10(b) of those Rules provides that the following is a violation under the Rules: "Knowingly ... covering up ... any acts ... of the type described in these Rules". Under Rule 7, this includes Bribery as therein described.*

- ii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 306(2)):

1. You were involved in an attempt to cover up what had happened in respect of the money obtained from Ms Shobukhova and the lack of disciplinary action against her in:
  - a. Trying to obtain the silence of Lilya Shobukhova and Igor Shobukhov by the repayment to her via Singapore of €300,000 in March 2014;

b. Trying to persuade her to sign an acceptance of sanction and then being involved in, or knowing about, the production of a forged signed acceptance of sanction.”

**(C) Details of the Alleged Acts and Omissions Relied Upon**

9. The Commission refers you to the Investigation Report in its entirety. In particular, the Commission refers to paragraphs 222-302 and 305-306 of the Investigation Report. The acts and omissions relied upon in support of the charges against you are those set out in paragraphs 8.a.iii and 8.b.ii above.

**(D) Range of Sanctions**

10. The range of sanctions open to the Commission to impose under the Code if it is established that you have committed the violation are set out at Section D17 of the Statutes of the Ethics Commission, as follows:

- a. Issuing a caution or censure;
- b. Ordering you to pay a fine;
- c. Suspending you (with or without conditions) or expelling you from any relevant office held;
- d. Suspending or banning you from taking part in any Athletics-related activity, including Events and Competitions;
- e. Removing any award or other honour bestowed on the person by the IAAF;
- f. Imposing any sanctions as may be set out in specific Rules; or
- g. Imposing any other sanction that the Panel may deem to be appropriate, including community service within athletics and/or restitution.

**(E) Timings and Other Matters**

11. A Panel of the Ethics Commission has been duly constituted to determine the charges in this case. The Members are as follows:

- a. The Honourable Michael Beloff QC (Chairperson of the Panel)
- b. Mr Akira Kawamura
- c. Mr Tom Murray

12. As set out in the covering letter to this Notification of Charges, in accordance with PR rule 13(17) the Chairman has fixed the following time limits:

- a. Briefs containing any defence of lack of jurisdiction or a defence on the merit to be filed with the Commission by **4pm on Monday 5 October 2015**.
- b. Notification whether you request an oral hearing to be filed with the Commission by **4pm on Monday 5 October 2015**.
- c. Any evidence upon which you intend to rely, including a list of all witnesses you will call, together with written statements of evidence to be filed with the Commission by **4pm on Monday 19 October 2015**.

13. For the avoidance of any doubt all documents are to be filed by 4pm UK time (GMT).

14. All communications should be sent to me as Legal Secretary of the Commission by email, fax, or post using the contact details below. Likewise, all documents to be filed with the Commission should be sent to me by the same methods.

**Tom Mountford**

**Legal Secretary to the IAAF Ethics Commission**

**Email:** [tommountford@blackstonechambers.com](mailto:tommountford@blackstonechambers.com)

**Fax:** +44 20 7822 0853

**Address:** Blackstone Chambers

Blackstone House

Temple

London EC4Y 9BW

14 September 2015

**GABRIEL DOLLE**

**NOTIFICATION OF CHARGE OF BREACH OF THE IAAF CODE OF ETHICS**

1. In accordance with Rule 13(14) of the IAAF Ethics Commission's Procedural Rules ("PR"), this document provides you with written notice of the following matters:
  - a. The fact that you have been charged with a case to answer for breaches of the IAAF Code of Ethics.
  - b. The specific violations of the Code that you are alleged to have committed.
  - c. Details of the alleged acts and/or omissions relied upon in support of the charge;
  - d. The range of sanctions applicable under the Code if it is established that you have committed the violation.
  - e. The timing for you to file your written submissions.

**(A) Case to Answer**

2. On 1 July 2014 you were notified that the Chairman of the Ethics Commission had concluded that there is a *prima facie* case that you have breached the IAAF's Code of Ethics and that the Chairman had determined to appoint The Right Honourable Sir Anthony Hooper to investigate the *prima facie* case against you.
3. Subsequently, Sir Anthony has been in direct contact with you during the course of his investigation.
4. Sir Anthony has now completed his investigation and provided the Ethics Commission with a final investigation report (the "**Investigation Report**") in accordance with rule 13(9) of the Ethics Commission's Procedural Rules ("PR"). The Investigation Report recommends that the case against you should proceed to adjudication. A copy of the Investigation Report is attached to this notification.
5. Following receipt of the Investigation Report, the Chairman of the Ethics Commission appointed a member of the Commission, Mr Kevan Gosper, to review the Investigator's final report and investigation files in accordance with PR rule 13(10).
6. Mr Gosper concluded that there is sufficient evidence for the case against you to proceed to adjudication, and so notified the Chairman in accordance with PR rule 13(12).
7. Also in accordance with PR rule 13(12), the Chairman has now directed that adjudicatory proceedings be commenced against you as you have a case to answer in respect of the

charge of breach of the Code of Ethics set out in accordance with PR rule 13(14) in this Notification of Charge.

**(B) Specific Violation Alleged**

8. The specific violation alleged against you is as follows:

- a. Breach of Article C8 of the Code of Ethics in force during the period 1 May 2012 until 8 August 2013, which reads:

*"All IAAF Officials shall use due care and diligence in fulfilling their role for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."*

- b. The charge which supports this allegation of breach is that you failed 12 June 2012 onwards to ensure that disciplinary procedures were instituted or disciplinary measures taken against Liliya Shobukhova in the light of the written opinions of Professors Schumacher and Audran dated 29 November 2011 and of Professor D'Onofrio dated 7 December 2011 and that this was likely to adversely affect the reputation of the IAAF, or the sport of athletics generally, and bring the sport into disrepute.

**(C) Details of the Alleged Acts and Omissions Relied Upon**

9. The Commission refers you to the Investigation Report in its entirety. In particular, the Commission refers to paragraphs 269-285 of the Investigation Report and the following acts and omissions are relied upon in support of the charges against you:

- a. Having sent Valentin Balakhnichev a letter on 12 June 2012 requiring him to take action against Liliya Shobukhova in respect of the conclusions of the three members of the IAAF's Anti-Doping Expert Panel (identified in paragraph 8.b above) in respect of blood tests of Ms Shobukhova, when no action was taken and there was no adequate explanation for the failure to take action (Investigation Report, paragraph 258(9)) you failed to ensure that action was taken by ARAF or to take action yourself, such as provisionally suspending Ms Shobukhova.
- b. You did not provisionally suspend Ms Shobukhova after she had competed in the August 2012 Olympic Games, despite Thomas Capdevielle asking you to do so several times (Investigation Report, paragraph 278).
- c. You did not provisionally suspend Ms Shobukhova before she competed in the Chicago Marathon in October 2012 (Investigation Report, paragraph 279).

- d. You have given no, or no convincing, explanation for not taking action following the failure of ARAF to act on your 12 June 2012 letter (Investigation Report, paragraph 280).

#### **(D) Range of Sanctions**

- 10. The range of sanctions open to the Commission to impose under the Code if it is established that you have committed the violation are set out at Section D17 of the Statutes of the Ethics Commission, as follows:
  - a. Issuing a caution or censure;
  - b. Ordering you to pay a fine;
  - c. Suspending you (with or without conditions) or expelling you from any relevant office held;
  - d. Suspending or banning you from taking part in any Athletics-related activity, including Events and Competitions;
  - e. Removing any award or other honour bestowed on the person by the IAAF;
  - f. Imposing any sanctions as may be set out in specific Rules; or
  - g. Imposing any other sanction that the Panel may deem to be appropriate, including community service within athletics and/or restitution.

#### **(E) Timings and Other Matters**

- 11. A Panel of the Ethics Commission has been duly constituted to determine the charges in this case. The Members are as follows:
  - a. The Honourable Michael Beloff (Chairperson of the Panel)
  - b. Mr Akira Kawamura
  - c. Mr Tom Murray
- 12. As set out in the covering letter to this Notification of Charges, in accordance with PR rule 13(17) the Chairman has fixed the following time limits:
  - a. Briefs containing any defence of lack of jurisdiction or a defence on the merit to be filed with the Commission by **4pm on Monday 5 October 2015**.

- b. Notification whether you request an oral hearing to be filed with the Commission by **4pm on Monday 5 October 2015**.
  - c. Any evidence upon which you intend to rely, including a list of all witnesses you will call, together with written statements of evidence to be filed with the Commission by **4pm on Monday 19 October 2015**.
13. For the avoidance of any doubt all documents are to be filed by 4pm UK time (GMT).
14. All communications should be sent to me as Legal Secretary of the Commission by email, fax, or post using the contact details below. Likewise, all documents to be filed with the Commission should be sent to me by the same methods.

**Tom Mountford**

**Legal Secretary to the IAAF Ethics Commission**

**Email:** [tommountford@blackstonechambers.com](mailto:tommountford@blackstonechambers.com)

**Fax:** +44 20 7822 0853

**Address:** Blackstone Chambers

Blackstone House

Temple

London EC4Y 9BW

14 September 2015

**PAPA MASSATA DIACK**

**NOTIFICATION OF CHARGE OF BREACH OF THE IAAF CODE OF ETHICS**

1. In accordance with Rule 13(14) of the IAAF Ethics Commission's Procedural Rules ("PR"), this document provides you with written notice of the following matters:
  - a. The fact that you have been charged with a case to answer for breaches of the IAAF Code of Ethics.
  - b. The specific violations of the Code that you are alleged to have committed.
  - c. Details of the alleged acts and/or omissions relied upon in support of the charge;
  - d. The range of sanctions applicable under the Code if it is established that you have committed the violation.
  - e. The timing for you to file your written submissions.
  - f. You may be provisionally suspended from any relevant position which you hold or may come to hold in the sport of athletics.

**(A) Case to Answer**

2. On 18 December 2014 you were notified that the Chairman of the Ethics Commission had concluded that there is a *prima facie* case that you have breached the IAAF's Code of Ethics and that the Chairman had determined to appoint The Right Honourable Sir Anthony Hooper to investigate the *prima facie* case against you.
3. Subsequently, Sir Anthony has been in direct contact with you during the course of his investigation.
4. Sir Anthony has now completed his investigation and provided the Ethics Commission with a final investigation report (the "**Investigation Report**") in accordance with rule 13(9) of the Ethics Commission's Procedural Rules ("PR"). The Investigation Report recommends that the case against you should proceed to adjudication. A copy of the Investigation Report is attached to this notification.
5. Following receipt of the Investigation Report, the Chairman of the Ethics Commission appointed a member of the Commission, Mr Kevan Gosper, to review the Investigator's final report and investigation files in accordance with PR rule 13(10).
6. Mr Gosper concluded that there is sufficient evidence for the case against you to proceed to adjudication, and so notified the Chairman in accordance with PR rule 13(12).

7. Also in accordance with PR rule 13(12), the Chairman has now directed that adjudicatory proceedings be commenced against you as you have a case to answer in respect of the charge of breach of the Code of Ethics set out in accordance with PR rule 13(14) in this Notification of Charge.

**(B) Specific Violation Alleged**

8. The specific violations alleged against you are as follows:

- a. Breaches of Articles C7 and H17 read together with Article C4 of the Code of Ethics in force during the period from 2003 to 30 April 2012 and committed during that period.

- i. Those Articles provide as follows:

*"C7 All persons subject to this Code shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."*

*H17 It is the duty of all persons under this Code to see to it that IAAF Rules and the present Code are applied.*

*C4 Fair play is the basic guiding principle in the sport of Athletics."*

- ii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 308(1)):

1. You participated in an agreement with Valentin Balakhnichev, Alexei Melnikov and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money.
  - b. Breach of Articles C8 and H18 read together with C4 of the Code of Ethics in force during the period 1 May 2012 until 8 August 2013 and committed during that period.

- i. Those Articles provide as follows:

*"C8 All IAAF Officials shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."*

*H18 It is the duty of all persons under this Code of Ethics to see to it that IAAF Rules and this Code of Ethics are applied.*

*C4 Fair play is the basic guiding principle in the sport of Athletics.”*

- ii. The charges which support these allegations of breach are as follows (Investigation Report, paragraph 308(2)):
  - 1. You participated in an agreement with Valentin Balakhnichev, Alexei Melnikov and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money.
- c. Breach of Articles C1(11), (12) and (14) of the Code of Ethics which was in force from 1 January 2014 to 30 April 2015 and committed during that period.
  - i. Those Articles provide as follows:

*“C1(11) Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.*

*C1(12) “Persons subject to this Code shall act with utmost integrity, honesty and responsibility in fulfilling their respective roles in the sport of Athletics.*

*C1(14) “Persons subject to the Code shall not ... engage in ... corrupt conduct in accordance with the Rules against Betting, Manipulation of Results and Corruption (Appendix 2).” Rule 10(b) of those Rules provides that the following is a violation under the Rules: “Knowingly ... covering up ... any acts ... of the type described in these Rules”. Under Rule 7, this includes Bribery as therein described.*

**(C) Details of the Alleged Acts and Omissions Relied Upon**

9. The Commission refers you to the Investigation Report in its entirety. In particular, the Commission refers to paragraphs 222-302 and 308 of the Investigation Report. The acts and omissions relied upon in support of the charges against you are those set out in paragraphs 8.a.ii, 8.b.ii and 8.c.ii above.

**(D) Range of Sanctions**

10. The range of sanctions open to the Commission to impose under the Code if it is established that you have committed the violation are set out at Section D17 of the Statutes of the Ethics Commission, as follows:

- a. Issuing a caution or censure;
- b. Ordering you to pay a fine;
- c. Suspending you (with or without conditions) or expelling you from any relevant office held;
- d. Suspending or banning you from taking part in any Athletics-related activity, including Events and Competitions;
- e. Removing any award or other honour bestowed on the person by the IAAF;
- f. Imposing any sanctions as may be set out in specific Rules; or
- g. Imposing any other sanction that the Panel may deem to be appropriate, including community service within athletics and/or restitution.

**(E) Timings and Other Matters**

11. A Panel of the Ethics Commission has been duly constituted to determine the charges in this case. The Members are as follows:

- a. The Honourable Michael Beloff QC (Chairperson of the Panel)
- b. Mr Akira Kawamura
- c. Mr Tom Murray

12. As set out in the covering letter to this Notification of Charges, in accordance with PR rule 13(17) the Chairman has fixed the following time limits:

- a. Briefs containing any defence of lack of jurisdiction or a defence on the merit to be filed with the Commission by **4pm on Monday 5 October 2015**.

- b. Notification whether you request an oral hearing to be filed with the Commission by **4pm on Monday 5 October 2015**.
  - c. Any evidence upon which you intend to rely, including a list of all witnesses you will call, together with written statements of evidence to be filed with the Commission by **4pm on Monday 19 October 2015**.
13. For the avoidance of any doubt all documents are to be filed by 4pm UK time (GMT).
14. All communications should be sent to me as Legal Secretary of the Commission by email, fax, or post using the contact details below. Likewise, all documents to be filed with the Commission should be sent to me by the same methods.

**Tom Mountford**

**Legal Secretary to the IAAF Ethics Commission**

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London EC4Y 9BW

14 September 2015

Appendix B – Investigation Report

**Final report of the investigation conducted by Sir Anthony Hooper- 4  
August 2015**

**Part 1- General**

**Introduction**

1. I was asked in July 2014 by the Chairman of the Ethics Commission to investigate the following persons in relation to various alleged violations of the Codes of Ethics:
  1. Liliya Shobukhova (LS) - marathon runner who won the 2009, 2010 and 2011 Chicago Marathons and the 2010 London Marathon;
  2. Valentin Balakhnichev (VB) - President of ARAF and Treasurer of the IAAF during the relevant period;
  3. Gabriel Dollé (GD) - director of the medical and anti-doping department at IAAF until his retirement on 1 October 2014.
2. I was asked in December 2014 to investigate the following persons in relation to various alleged violations of the Codes of Ethics:
  1. Papa Massata Diack (PMD) - Consultant to the IAAF during the relevant period and son of the President, Lamine Diack;
  2. Alexei Melnikov (AM) - chief ARAF coach for long distance runners and walkers.
3. I communicated with them by email and, with the exception of GD, in English. At the request of GD I communicated with him in French.
4. VB received the assistance of Mr A. Lenon QC, an English barrister, from 11 September 2014. I copied to Mr Lenon my correspondence with VB. LS received the assistance of Mr Mike Morgan, an English solicitor, of Morgan Sports Law.
5. The procedure which sets out the duties of an investigator is to be found in Appendix 7 of the current Code of Ethics.
6. Central to the issues which I am investigating is the evidence of LS, of her husband Igor Shobukhov (IS) and of her New York based manager, Andrey Baranov. LS and IS have

only a limited knowledge of the English language. All three were represented by Mr Mike Morgan. For a variety of reasons I did not receive their statements until 19 March 2015. I later received an amended statement dated 16 July 2015. Given the central importance of these statements in the investigation, this caused a substantial delay in preparing and finalising this report. The statements are in English but, thanks to Mr Mike Morgan and Andrey Baranov, reflect what LS and IS said to them in Russian.

7. The alleged violations of the Codes of Ethics first came to light when Andrey Baranov made allegations to Sean Wallace-Jones in February 2014.
8. I have decided that the test I should apply when considering whether to recommend adjudication in relation to an identified violation is the following:

Is there a realistic prospect on the evidence available to me that the Ethics Commission (or a panel thereof), applying Rule 11 of Appendix 7 of the Code of Ethics, will find to the required standard of proof that the violation is established?

Given the serious nature of the allegations, I have assumed that the Ethics Commission will apply the standard “beyond a reasonable doubt”.<sup>1</sup>

9. In the first part of the Report I shall set out the evidence and then, under the heading “Conclusions”, identify the principal factual conclusions necessary for any finding of a violation or violations. I shall then ask whether there is a realistic prospect that the Ethics Commission will find that those factual conclusions are established beyond a reasonable doubt.
10. In the latter part of the Report recommend whether the cases of the persons under investigation should proceed to adjudication and, if so, for which violation or violations. Because I anticipate some further material may be sent to me or come to light, I may have to prepare an addendum. I do not anticipate that the addendum will alter my conclusions.
11. The Report will be provided in electronic form. References to statements, emails and exhibits are hyperlinked to either the “Exhibits” folder or “Witness Statement” folder. Paragraph numbers in this Report will be cross-referenced in the following way [ ].

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<sup>1</sup> Rule 9(14) (Betting And other Anti-Corruption Violations) which was in force from 1 May 2012 to 8 August 2013 provides for a slightly lower standard of proof for cases under this Rule.

Where in a quotation there is an obvious typographical error or the appropriate accent has been omitted, I may correct the passage to assist the reader or as a courtesy.

## The evidence- 2011

### *Concern within IAAF about Russian athletes*

12. In 2011 the IAAF medical and anti-doping department was very concerned that five Russian athletes, including LS and four other athletes, had atypical Athlete Biological Passport (ABP) profiles. During 2011 their profiles were referred to an Expert Panel. The profile of LS was referred to a panel on 18 November 2011.<sup>2</sup>

### *Involvement of Habib Cissé in the LS case*

13. In November 2011 GD informed Thomas Capdevielle, at that time the IAAF senior anti-doping manager, that Maître Habib Cissé (HC) would be personally supervising the management of the ABP cases involving Russian athletes.<sup>3</sup> HC is a lawyer in private practice in Paris who acts for the IAAF from time to time and is also the President's legal adviser.
14. Thomas Capdevielle wrote in his statement:

15. In or around November 2011, I was informed by Gabriel Dollé that, from now on, Habib Cissé (Legal Counsel to the President), would be personally supervising the management of the ABP cases involving Russian athletes. On 14 November 2011, I sent an e-mail to my colleagues Dr Pierre-Yves Garnier (IAAF Medical & ABP Manager) and Huw Roberts (IAAF Legal Counsel) (TC-1) to inform them of his involvement.

15. The 14 November email reads:<sup>4</sup>

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<sup>2</sup> See statement of Thomas Capdevielle dated 2 February 2015, para. 13 and following: [Witness statements\T Capdevielle\WS 1 T Capdevielle 02 02 2015.pdf](#). For the members of the panel, see [24].

<sup>3</sup> Ibid. para. 15.

<sup>4</sup> [Witness statements\T Capdevielle\TC-1.pdf](#)

**Thomas Capdevielle**

---

**From:** Thomas Capdevielle  
**Sent:** lundi 14 novembre 2011 15:19  
**To:** Huw Roberts; Pierre-Yves Garnier  
**Subject:** ABP RUS

FYI,  
Habib is now officially involved in the management/follow-up of the Russian ABP cases.

Thomas

16. The statement of Thomas Capdevielle continues:

16. Shortly before on 3 November 2011, I had been asked by Gabriel Dollé, to prepare and send a note to Habib Cissé summarizing the status of the numerous ABP Russian cases, then under proceedings or under investigations.

17. He produces the note to HC and accompanying document referred to in this email.<sup>5</sup> It reads:

**Thomas Capdevielle**

---

**From:** Thomas Capdevielle  
**Sent:** vendredi 18 novembre 2011 10:30  
**To:** habcisse@orange.fr  
**Cc:** Gabriel Dollé  
**Subject:** RUS ABP cases  
**Attachments:** Alminova RM file.pdf; RUS ABP cases summary.pdf; RUSADA2009ADRules.doc

Cher Habib,

Tu trouveras ci-joints les documents demandés relatifs aux cas de passeport biologique en cours impliquant des athlètes russes.

J'ai également joint la version 2009 des Règles de RUSADA transmises par les juristes de l'AMA. J'ai demandé confirmation à RUSADA qu'il s'agissait de la dernière version, sans réponse à ce jour.

Bien à toi

Thomas

18. An accompanying document is described as a "Note interne sur le suivi des athlètes russes dans le cadre du Passeport Biologique de l'Athlète (PBA)". The first part of the Note reads as follows :

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<sup>5</sup> [Witness statements\T Capdevielle\TC-2.pdf](#)

L'IAAF a commencé les tests sanguins en 2001 à l'occasion des Championnats de Monde à Edmonton. Le programme des contrôles sanguins s'est développé au fil des années, à des fins de ciblage. Les athlètes présentant des anomalies au niveau des paramètres hématologiques ont été systématiquement suivis et généralement soumis à des contrôles urinaires avec recherche d'EPO. Toutefois l'EPO est assez rarement détectée dans l'urine à cause de son élimination rapide et des doses relativement faibles actuellement administrées dans les pratiques de dopage.

C'est pourquoi le PBA, avec la mise en place des profils sanguins individuels des athlètes, constitue maintenant une nouvelle méthode de détection indirecte de manipulations par dopage. Les résultats des tests pratiqués au cours des dernières années ont fait apparaître une très nette prédominance d'anomalies chez les athlètes russes et mis en évidence certains autres pays ayant des athlètes suspects de ces pratiques de dopage. Mr. Balakhnichev a été personnellement informé dès 2009 au sujet des paramètres sanguins élevés révélés par les contrôles effectués lors des Championnats du Monde à Berlin sur 17 athlètes russes.

Depuis que les Directives opératoires pour le Passeport Biologique ont été publiées par l'AMA en 2009, l'IAAF a mis en conformité son Protocole pour les contrôles sanguins et procédé à la constitution des premiers dossiers d'athlètes soumis à l'expertise de spécialistes en vue d'engager les procédures disciplinaires prévues pour ces cas.

Voici la situation des athlètes russes concernés par des profils hématologiques anormaux.

19. There then follows a list of 23 Russian athletes whose cases are in varying stages of investigation. In so far as LS is concerned, the document states:

**Dossiers d'expertise en cours de constitution (8)**

➤ *Première notification possible avant la fin de l'année ou janvier 2012 (selon la conclusion des experts)*

• **Liliya Shobukova (34 ans)**

Marathon – Podium internationaux régulièrement depuis 2005 en 5000m – reconversion dans le marathon – plusieurs titres dans des marathons majeurs (Chicago 2010 et 2011).

20. The names of seven other athletes appear below the name of LS in the same category. Amongst those names, the following five names appear in paragraph 5 of the WADA document [41]: Borchin, Kaniskina, Kirdyabkin, Zolotova and Kanayakin. According to the WADA document, VB gave the names of LS and of these five athletes whom, he said, the IAAF had identified as having abnormal profiles but in respect of whom “no result management or follow up took place by IAAF”. I understand from Thomas

Capdevielle<sup>6</sup> that ARAF did not conclude proceedings against four of these athletes (Borchin, Kaniskina, Kirdyabkin and Kanayakin) but that they were, at some point, provisionally suspended. According to Thomas Capdevielle, the last reminder from the IAAF to ARAF to conclude the proceedings against them was sent in June 2014 and the cases were then referred by the IAAF to CAS in July/August 2014. In the case of Zolotova there was no unanimity amongst the experts.<sup>7</sup>

21. According to Thomas Capdevielle, the involvement of HC in the Russian ABP cases was “unusual and inappropriate.”<sup>8</sup> According to Thomas Capdevielle and Huw Roberts, HC had never previously been involved in any case at the result management level.<sup>9</sup> Huw Roberts was not involved in any discussions about the Russian ABP cases with GD or HC and they did not keep him informed about their progress.<sup>10</sup>
22. GD, in an email to me dated 8 January 2015,<sup>11</sup> wrote :

Maître Habib Cissé a été impliqué dans les questions de dopage concernant l’IAAF dès le début des années 2000. Son implication, de manière générale, consistait à participer à l’étude juridique de cas de dopage au regard de la règlementation antidopage, à rédiger des contrats de coopération avec des agences nationales antidopage, à réviser / amender les règles et le règlement antidopage de l’IAAF. En tant que conseiller juridique externe, il n’intervenait pas directement dans le cadre de la gestion des résultats ni dans le processus disciplinaire initial de traitement des cas de dopage. Il participait à des réunions de travail organisées par le Département Médical et Antidopage selon les besoins du calendrier et en fonction des questions juridiques posées par certains cas à examiner. Le dossier LS entrait, au fil de son évolution, dans ce contexte habituel de travail d’assistance juridique. (Soulignement ajouté)

23. I asked GD further about HC’s involvement.<sup>12</sup> He wrote:<sup>13</sup>

En ce qui concerne Maître Habib Cissé (HC), je confirme qu’il n’intervenait pas directement dans le cadre de la gestion des résultats ni dans le processus disciplinaire initial de traitement des cas de dopage (voir ma réponse du 8 janvier 2015).

<sup>6</sup> [Witness statements\T Capdevielle>Email 06 07 2015 re other Russian athletes.pdf](#)

<sup>7</sup> See also the statement of Huw Roberts, para. 10: [Witness statements\WS 2 H Roberts 17 03 2015.pdf](#)

<sup>8</sup> Thomas Capdevielle confirmed to me that there was no interference whatsoever from GD or HC in (i) the implementation of the testing plan or (ii) the review of cases by the independent panel: see [Witness statements\T Capdevielle>Email 06 07 2015 re other Russian athletes.pdf](#)

<sup>9</sup> See statement of Thomas Capdevielle dated 2 February 2015, paras. 16-19 (f/n 2) and statement of Huw Roberts dated 7 March 2015, para. 7: [Witness statements\WS 2 H Roberts 17 03 2015.pdf](#)

<sup>10</sup> See para. 8 of Huw Roberts statement: [Witness statements\WS 2 H Roberts 17 03 2015.pdf](#)

<sup>11</sup> [Witness statements\G Dolle\11. GD response 08 01 2015 to email of 01.01.2015.pdf](#)

<sup>12</sup> [Witness statements\G Dolle\10. Email to GD 01 01 2015.pdf](#); [Witness statements\G Dolle\13. GD final request 07 06 2015.pdf](#)

<sup>13</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

Je n'ai pas informé Thomas Capdevielle (TC) que HC superviserait personnellement la gestion des cas ABP russes comme vous l'affirmez, mais comme l'indique TC lui-même, que HC était impliqué (involved) dans ces cas, comme habituellement et de manière appropriée, en tant que conseiller juridique externe. En effet, diverses questions juridiques se posaient dans la gestion du passeport biologique surtout au regard du grand nombre de cas russes. Comme vous pouvez le constater, les documents que TC a envoyé à HC le 18.11.2011 étaient précisément destinés à l'informer sur les cas en cours et en relation avec des questions juridiques liées à ces cas (notamment les règles de RUSADA transmises par les juristes de l'AMA).

*Report of the three experts into LS case*

24. The three experts consulted about the profile of LS provided their written opinions on 29 November 2011 (Professors Schumacher and Audran) and 7 December 2011 (Professor D'Onofrio).<sup>14</sup> Their conclusions were to the effect that it was highly likely, absent a satisfactory explanation from the athlete, that her profile was the result of the use of a prohibited substance or a prohibited method.
25. Upon receipt of the reports, the procedure which would otherwise have led to the ratification of a world record set by LS in the 2011 Chicago Marathon (the first 30 kilometres) was halted.<sup>15</sup>

*Evidence that ARAF had a copy of a list of Russian athletes with suspicious ABP*

26. In the meantime, Andrey Baranov (LS's manager) says that he received a call on 1 December 2011 from AM which lasted eight minutes. He inserts into his statement a copy of a document which apparently supports the fact of the call and its duration.<sup>16</sup>
27. Andrey Baranov continues:

16. Mr Melnikov told me that ARAF had received a list from the IAAF of Russian athletes who each had suspicious athlete biological passport data (the “**2011 List**”). Mr Melnikov did not provide me with the identities or the exact number of Russian athletes on the 2011 List - he only told me that Liliya was amongst many others listed on it. Mr Melnikov indicated this was a serious matter and needed to be addressed.

17. I have never fully trusted Mr Melnikov and so I did immediately have suspicions as to whether the 2011 List even existed, or had been invented in order to extort money from the athletes allegedly listed within it. You have to understand the way

<sup>14</sup> [Exhibits\Ex 1 Expert panel members reports.pdf](#)

<sup>15</sup> [Exhibits\Ex 2 IAAF Email chain and memo re LS world record.pdf](#)

<sup>16</sup> [Witness statements\Andrey Baranov\150311 SHO- Andrey Baranov Signed Witness Statement .pdf](#), para. 1.

Russian sport works to understand my suspicions; athletes routinely pay a percentage of their earnings to ARAF. It is so common that the athletes do not even question it; they just accept that it is part of being a Russian athlete. Liliya's success meant that she earned a lot more money than the average Russian athlete. Given Mr Melnikov's involvement with Liliya's training, he knew how much money she was making. The combination of those factors meant that it was always in the back of my mind that the 2011 List was just a ploy to extort money from Liliya.

18. In any event, I was never shown a copy of the 2011 List, nor was I told which athletes (other than Liliya) were on it.

19. I did not have any further conversations with Melnikov regarding the 2011 List. Once Liliya was informed, I was not involved in this matter again until 2014. I interpreted the silence on the issue as meaning that it had been resolved, ignored by the relevant authorities or never existed in the first place. I expected that, if there was in fact any issue, Mr Melnikov would have mentioned it to me again. However, he did not.

28. It seems quite possible that the 2011 list, as Andrey Baranov calls it, is the list that was sent to HC on 18 November 2011 (one of “les documents demandés”). Records of visits to Moscow by HC show that he was there at IAAF expense from 20.11.2011 to 24.11.2011.<sup>17</sup>

29. On the other hand, Thomas Capdevielle of the IAAF confirms the existence of the kind of lists to which Andrey Baranov is referring and their availability at that time to IAAF officials, including Dr Dollé as well as HC, so it could have reached AM by another route.<sup>18</sup>

30. I asked GD a question in my letter to him of 7 June 2015<sup>19</sup> about an email which he had sent me on 3 October 2014:

Je note que l'on vous a informé que l'ARAF aurait eu connaissance non officiellement en décembre 2011 ou tôt en 2012 des profils anormaux de LS et peut-être d'autres athlètes russes dirigées par M. Baranov. Il m'est difficile d'essayer de vérifier la véracité d'une information dont la source est basée sur « on », sans autre précision.

31. I asked him:

10. Etant donné le rôle que vous avez donné à HC et le contenu de ces « documents demandés », acceptez-vous maintenant qu'il est probable que HC a donné les détails des profils anormaux de LS et d'autres athlètes russes à l'ARAF en

<sup>17</sup> [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare June 2015.pdf](#)

<sup>18</sup> [Witness statements\T Capdevielle\WS 1 T Capdevielle 02 02 2015.pdf](#), paras. 9 and 11.

<sup>19</sup> [Witness statements\G Dolle\13. GD final request 07 06 2015.pdf](#)

novembre/décembre 2011? Il y a des preuves qu'un liste des athlètes russes avec des profils anormaux était dans les mains d'ARAF par 1 décembre 2011 et que HC était en Moscou vers la fin de novembre.

32. He replied on 17 June:<sup>20</sup>

Je ne crois pas que HC puisse être à l'origine de la communication de détails des profils anormaux de LS et d'autres athlètes russes à l'ARAF mais qu'il a simplement dû utiliser ces documents à titre confidentiel, comme tout avocat gère les informations de ses clients.

33. LS and IS confirm that they were told by Andrey Baranov about the December AM call and confirm that AB was not told about the later payments to AM (see below).

*LS and IS – background and events of late 2011*

34. IS, the husband of LS, made a statement on 11 March 2015.<sup>21</sup> LS confirms the truth of those matters in the statement within her knowledge and states that where the matters stated are not within her knowledge they are true to the best of her knowledge and belief.<sup>22</sup> IS states that AM was directly involved in LS's training and preparation for the 2012 London Marathon. AM told her that any queries relating to her athletics would need to be dealt with through him. AM and LS would discuss the competitions she was to enter. Andrey Baranov would enter her into the races but only with AM's prior authorisation.<sup>23</sup> AM was paid in cash a 5% commission on LS's winnings and sponsorship monies.<sup>24</sup>
35. AM denies this emphatically. He says that he has "never been coach" to Ms Shobukhova and has never received any commission on her earnings. He requests LS to produce any documentary evidence to support the allegation of a commission.<sup>25</sup>
36. IS explains their banking arrangements:

17. I was responsible for Liliya's finances at all material times. Whenever Liliya won prize or sponsorship money, Andrey transferred her earnings to our Russian bank account. We do not trust the Russian Banking system or currency, so I typically promptly withdrew the money from our bank account as cash in US Dollars ("USD").

<sup>20</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17.06 to letter of 07.06.2015.pdf](#)

<sup>21</sup> [Witness statements\Lilya and Igor Shob\150311 SHO- Igor Shobukhov Signed Witness Statement.pdf](#) paras 22 – 25.

<sup>22</sup> [Witness statements\Lilya and Igor Shob\150311 SHO- Liliya Shobukhova Signed Witness Statement.pdf](#)

<sup>23</sup> See paras. 15-16 of IS statement.

<sup>24</sup> See paras. 19-21 of IS statement.

<sup>25</sup> [Witness statements\A Melnikov\6. AM Request for written submissions.pdf](#)

I then placed the cash into a safe deposit box with the Sberbank Russia branch in our hometown. I would withdraw large amounts of USD, often in sums of \$100,000 at intermittent stages to avoid leaving a trail on our Russian bank account.<sup>26</sup>

37. IS further states:

22. In mid-December 2011, on mine and Liliya's return from a training camp in Kislovodsk which had taken place from 1 to 24 December, Liliya received a call from Andrey, who had just returned to New York following a trip to Singapore. Andrey informed us that Melnikov had called him earlier that month on 1 December 2011. Melnikov had informed Andrey that ARAF had apparently received a list of names from the IAAF of Russian athletes who were under investigation as the result of suspect Athlete Biological Passports ("APB") ("the List"), and apparently, Liliya was on the List.

23. As a result of Andrey's discussion with Melnikov, he withdrew Liliya from the 2012 London Marathon in April as Andrey wanted the issue to be resolved before Liliya competed again.

24. At the end of December, Melnikov called Liliya and told her about the List. He informed us that we needed to pay €150,000 in cash to have Liliya's name removed from the List. Melnikov did not tell us who the money was going to, or to which organisation, only that the payment would allow Liliya to compete in the London 2012 Olympic Games ("London 2012"). Melnikov urged us to make the payment quickly and prior to Liliya's departure for the forthcoming National Team training camp in January 2012. When we told him that we only had cash in USD, he agreed to accept USD at the current exchange rate.

25. Before he ended the call, Melnikov warned us not to tell Andrey about the payment. We told Andrey nothing of our call with Melnikov and the money he had requested from us, and proceeded to prepare the cash for Melnikov.

26. Liliya was very worried at the prospect of not being able to compete at London 2012 as it had been a goal for many years. We had never seen the List and did not know whether it even existed. However, what you must understand is that ARAF had dictated Liliya's life, and mine by association, for a long time and we knew we had no choice but to do what Melnikov instructed.

27. Using the exchange rate at the time, I calculated the monies owed to amount to a USD equivalent of \$190,000. Just a month beforehand, I had withdrawn \$211,000 USD cash from our bank account on 3 November 2011 in the usual manner on receiving Liliya's competition monies, and placed it in our safe deposit box. However, as it was the holidays, we did not have immediate access to safe deposit box at the local bank and so on 27 December 2011, we ordered a further \$100,000 USD from Liliya's bank account:

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<sup>26</sup> IS in a footnote refers to IS1: [Witness statements\Lilya and Igor Shob\Exhibit IS1 - Lilya Bank Account transactions schedule - Jan 2011 to Ma....pdf](#)

21.12.2011	661-190	09	доп.знос.	47422840906519940001		285 879.01	294 876.53
27.12.2011	1187-191	09	част.выд.	20202840306510145820	100 000.00		194 876.53
28.02.2012	8865-192	09	доп.знос.	30302840606516001600		100 000.00	294 876.53

The remaining \$90,000 comprised of USD we had stored in our property.

38. AM denies the allegations made against him by LS and IS.<sup>27</sup>

39. VB denies knowing about any payments made by LS to AM.<sup>28</sup>

40. GD denies knowing about any payments made by LS to AM.<sup>29</sup>

#### *Evidence from WADA*

41. An extract from a WADA document sent to the Ethics Commission in November 2014 states:<sup>30</sup>

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<sup>27</sup> [Witness statements\A Melnikov\3. Email 20 02 2015 to AM.pdf](#); [Witness statements\A Melnikov\5. AM response 04 03 2015 to email of 20 02 2015.pdf](#) and [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

<sup>28</sup> [Witness statements\V Balakhnichiev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

<sup>29</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

<sup>30</sup> For the full statement see: [Exhibits\Ex 4 Statement from WADA to IAAF Ethics Commission-20141107 \(4\).pdf](#)

2. On 19 September, Sir Craig Reedie and Mr. Olivier Niggli met with a delegation of the Russian Ministry of Sport composed of the Deputy Minister of Sport, Yuri Nagornyh and a lawyer from the Ministry, Miss Natalia Zhelanova (Miss Zhelanova is known to WADA as she is a member of the WADA Finance Committee).
3. During this meeting we were informed by the Deputy Minister that he had discussion with Mr. Valentin Balakhnichev, President of the All Russia Athlete Federation, (ARAF) who is also the Treasurer of the IAAF.
4. The Deputy Sport Minister, Mr. Nagornyh, informed us that he was willing to share with us the information he had received from Mr. Balakhnichev.
5. This information can be summarized as follows:
  - Since 2011 ARAF has been blackmailed by IAAF.
  - A system was put into place at the IAAF level under which athletes with an abnormal blood passport profile would be allowed to keep competing at high level in exchange of cash payments made to the IAAF.
  - In Russia, this would concern at least six athletes identified as follows:
    - o Liliya Shobukhova
    - o Valeriy Borchin
    - o Olga Kaniskina
    - o Sergey Kirdyabkin
    - o Yevgeniya Zolotova
    - o Vladimir Kanayakin
  - For these six athletes, despite abnormal profiles having been identified for each by IAAF, no result management or follow up took place by IAAF.
  - According to Mr. Balakhnichev the system was introduced and orchestrated by the son of the IAAF President and his lawyer, Mr. Habib Cisse, with the help of some people within the IAAF anti-doping department.
  - The system was in place not only in Russia, but, potentially, in other countries such as Morocco and Turkey.
  - The money was apparently paid by the athletes' agents to ARAF and then given to IAAF.

42. As to the names in paragraph 5 of this document, [20], [64] and [121].

43. VB disputes the contents of this document. He states:<sup>31</sup>

4. I categorically deny that I ever discussed with Mr Nagornyh any question of blackmail by the IAAF or the covering up of anti-doping rule violations by the IAAF. I believe that Mr Nagornyh would confirm this. I assume that there must have been a misunderstanding on the part of WADA. The IAAF has never blackmailed the ARAF concerning athletes who allegedly used prohibited substances or methods and the

<sup>31</sup> [Witness statements\VBalakhnichev\22. Email response 19 12 2014 to letters of 27 11 2014 and 05 12 2014.pdf](#)

IAAF and ARAF have never put into place any system for covering up anti-doping rule violations.

44. In his email of 31 May 2015 he states:<sup>32</sup>

As you know, I dispute the contents of the WADA document from which you quote. I have not been able to obtain a confirmation from Mr Nagorhny that he did not make the statements attributed to him in the WADA document. If he did make those statements, there were incorrect and may have been put forward was a way of deflecting criticism of the Russian authorities.

45. PMD states on 11 May 2015:<sup>33</sup>

The accusations made by such a serious and reputable institution as WADA and Russian officials against the IAAF and myself of having put into place the alleged system is a major concern to me. These accusations give me the impression that we are dealing with a major conspiracy against the IAAF.

Regarding the statements allegedly made by Mr. Valentin Balakhnichev, I shall reserve my rights to challenge him personally in courts for such defamation if it is proven that he made such a statement to the Deputy Minister of Sport, Mr. Yury Nagornyh. On this note, please allow my lawyers to have copy of the WADA document dated 7 November 2014 and to check out its veracity.

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<sup>32</sup> [Witness statements\Balakhnichev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

<sup>33</sup> [Witness statements\PMD\10. PMD response 11 05 2015 to letter of 01 05 2015 .pdf](#)

## The evidence- 2012

*Evidence from LS and IS of payment to AM in January 2012*

46. IS continues:

28. On 12 January 2012, I travelled to Moscow with Liliya on her way to her National Team Training camp. We had packed the \$190,000 USD cash in our luggage. On the same day, Liliya and I made a stop at ... Melnikov's offices located at the Olympic Committee Building which is also ARAF's headquarters. We handed the cash to Melnikov and he placed it within a safe in his office. Then Melnikov told us not to worry anymore and confirmed that we could proceed to the training camp in Portugal. Melnikov assured us that he would speak with the IAAF and that there would be no doubt about Liliya's participation at London 2012. After our discussion with Melnikov and his many assurances, we both considered the matter to be closed.

29. *Following the meeting, we went to the British Consulat in Moscow where Liliya provided finger prints for her VISA application.* The next day, on 13 January 2012, we proceeded to the National Team training camp in Portugal, where we remained for two months. (Italicised sentence added in in a later amended statement.<sup>34)</sup>

47. The two tickets to Moscow are produced as IS2.<sup>35</sup>

48. HC was in Moscow at IAAF expense from 17 January to 21 January 2012.<sup>36</sup>

49. I wrote to AM<sup>37</sup> telling him that there was evidence that in early June 2012 he had: told LS that she would now not be allowed to compete at London 2012 unless she made a further payment of €300,000. I also told him that there was evidence that he had been asked by LS and IS who the first payment had gone to and that he had said that it was provided to a lawyer. I asked who was that lawyer and whether he had had any dealings with Habib Cissé or any other lawyer? He replied:<sup>38</sup>

Answer: False statement. I have never discussed with Ms Shobukhova these issues and I have never demanded any money from her. I have never referred to any lawyer. I have never had any dealings with Habib Cissé or any other lawyer in connection with Ms Shobukhova.

50. AM went on to say:

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<sup>34</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#)

<sup>35</sup> [Witness statements\Lilya and Igor Shob\Exhibit IS2 - Liliya - Igor electronic flight ticket - Magnitogorsk to M....pdf](#)

<sup>36</sup> [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare June 2015.pdf](#)

<sup>37</sup> [Witness statements\A Melnikov\6. AM Request for written submissions.pdf](#)

<sup>38</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

On 12 January 2012 I was out of Moscow and I have documentary evidence in this regard (Annex 1 and 2 to this letter).

51. I had written to AM on 20 February 2015:<sup>39</sup>

Please provide me with the details of what you describe [in the email of 20 February 2015<sup>40</sup>] as the “strong evidence that the accusations made by LS and her husband are false”.

52. It was not until 1 July 2015<sup>41</sup> that he sent me the documentary evidence (in Russian with translations<sup>42</sup>) which he says supports the fact that he was not in Moscow on 12 January 2012 but in Sochi. It consists of an undated “letter of confirmation” and what appears to be an invoice.<sup>43</sup>

53. On 2 July 2015 I wrote to AM:<sup>44</sup>

Please send me copies of your air tickets to Sochi on 11.01.2012 and ... from Sochi on 14.01.2012 ...

Please also send me copies of the emails requesting and receiving the documentation from Sports South.

He replied:<sup>45</sup>

I cannot provide you with the copies of air tickets since according to my usual practice I travel by car. It is more convenient for me as I can easily move by car within the city where training camp takes place.

The documentation has been received by me in Sochi ... and accordingly I did not request it by e-mail.

The distance between Moscow and Sochi is 1,622 kms.

54. I informed LS and IS through Morgan Sports Law of AM’s statement that he was not in Moscow on 12 January, and I received this reply confirming their evidence that they had made the payment on 12 January:<sup>46</sup>

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<sup>39</sup> [Witness statements\A Melnikov\3. Email 20 02 2015 to AM.pdf](#)

<sup>40</sup> [Witness statements\A Melnikov\2. AM response 20 02 2015 to email of 10 02 2014.pdf](#)

<sup>41</sup> AM had asked for an extension from the original date for the reply of 12 June 2015 and I granted that extension.

<sup>42</sup> Which I have not checked.

<sup>43</sup> [Witness statements\A Melnikov\8. Annex 1 to AM's letter of 01 07 2015.pdf](#) ; [Witness statements\A Melnikov\9. Annex 1 Eng to AM's letter of 01 07 2015.pdf](#) ; [Witness statements\A Melnikov\10. Annex 2 to AM's letter of 01 07 2015.pdf](#) ; [Witness statements\A Melnikov\11. Annex 2 Eng to AM's letter of 01 07 2015.pdf](#)

<sup>44</sup> [Witness statements\A Melnikov>Email to AM 02 07 2015 requesting further information.pdf](#)

<sup>45</sup> [Witness statements\A Melnikov>Email from AM 28 07 2015.pdf](#)

<sup>46</sup> [Witness statements\Lilya and Igor Shob>Email from Morgan Sports Law 02 07 2015.pdf](#)

On 12 January 2012, Liliya and Igor travelled through Moscow on their way to the National Team Training Camp, and stopped in Moscow for the sole reason of meeting with Melnikov at ARAF's offices in order to pay him \$190,000 in cash. He placed the cash within a safe at his office. As Liliya and Igor left their sports ID at home, they were asked to present their passports for entry into the building, and their visit was recorded in the building log book and the log recorded that they were there to meet with Melnikov. They were issued a ticket, which Melnikov signed and before leaving the building, they gave the ticket back to security.

I decided that it would not be practical to ask ARAF for a copy of the log and that, in any event, I took the view that I would have no way of knowing whether anything I was sent was genuine.

*Failure by IAAF in the period up to June 12 2012 formally to inform ARAF following receipt of the reports of the three experts*

55. No formal request asking ARAF to take action against LS was made by the IAAF to ARAF until 12 June 2012. GD gives the following explanation for the delay:<sup>47</sup>

d.e.f. Notre expérience de la gestion des cas de Passeport Biologique de l'Athlète (ABP) nous oblige à reconnaître que le problème des retards est un souci permanent difficile que nous traitons par la patience, la persévérance dans des rappels persuasifs et finalement la menace d'aller en appel devant le Tribunal Arbitral du Sport en cas de carence.

Au niveau de l'IAAF, après la mise en oeuvre du Passeport Biologique, le suivi des dossiers ABP a également connu des retards dans la gestion de cette nouvelle variante de contrôles antidopage sanguins anormaux au cours des années 2011/2012, début de la conclusion des premiers cas ABP. Nous avons dû intégrer dans l'activité antidopage quotidienne de notre Département déjà saturé de travail, la détection et le minutieux suivi des nombreux cas de profils suspects débutants, avant de pouvoir en confirmer certains comme étant avérés anormaux et les administrer.

56. Thomas Capdevielle gives this explanation for the delay<sup>48</sup> which GD adopted:<sup>49</sup>

24. It is fair to say that the case of Liliya Shobukhova was the first of the ABP cases pursued so far by the IAAF, involving a high-profile athlete. Although the experts gave a clear "green light" to pursue the result management process, we

<sup>47</sup> [Witness statements\G Dolle\2. GD response 31 08 2014 to letter of 16 07 2014.pdf](#)

<sup>48</sup> [Witness statements\T Capdevielle\WS 1 T Capdevielle 02 02 2015.pdf](#)

<sup>49</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#). He wrote : « Pour le prétendu retard de l'information de l'ARAF par l'IAAF sur l'anomalie du profil sanguin de LS, je ne peux que réitérer les termes de mon courriel du 31 août 2014 mentionnant l'énorme charge de travail difficile causée par l'extension du passeport biologique et le nombre croissant de cas suspects et anormaux (surtout russes) à partir de 2011/2012. Je confirme à ce sujet l'explication pertinente de TC indiquant la précaution que nous avons prise dans le cas de LS, de compléter son profil sanguin par des tests additionnels, pour sécuriser la conclusion des experts, avant d'en informer l'ARAF.»

considered at the time that we should be extremely cautious and to not "rush" the case, as we knew she would certainly fight her case all the way to CAS. At this point in time, as far as I remember, we considered the opportunity to further strengthen her profile with one or two further tests before formally opening an investigation into a potential anti-doping rule violation. I remember that we also considered strengthening her profile (comprising only 5 values) with references to the first ABP cases ever pursued in skating (Peschstein case) and in cycling (Valjavec, Caucchioli, De Bonis, Pellizotti) with ABP profiles containing much more values (up to 20 and more).

57. Thomas Capdevielle continues:

25. As we knew Ms Shobukhova would usually participate in the London Marathon held in April, I remember that we considered collecting a last sample at this competition. She finally did not compete in London.

26. I remember then, I assume when we learnt she would not compete in London, having drafted a first notification letter which, I believe, was never sent (see draft letter created on 6 April 2012 in Word version in TC-4).<sup>50</sup>

The first notification letter, which is in similar terms to the later letter of 12 June 2012, is signed by GD (but that may be an electronically placed signature).

58. I asked GD about this first notification letter<sup>51</sup> but he did not address the matter specifically.<sup>52</sup>

59. Thomas Capdevielle continues:

27. Gabriel Dollé asked me to send a second version of the first notification letter dated 12 May 2012 to Habib Cissé by e-mail on 10 May 2012, for delivery, in the perspective of a forthcoming trip to Saransk (TC-5).<sup>53</sup>

60. There is no evidence that this letter was delivered.

61. The 10 May email to HC and GD reads:

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<sup>50</sup> [Witness statements\T Capdevielle\TC-4.pdf](#)

<sup>51</sup> [Witness statements\G Dolle\13. GD final request 07 06 2015.pdf](#), at para. 20.

<sup>52</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

<sup>53</sup> [Witness statements\T Capdevielle\TC-5.pdf](#)

**Thomas Capdevielle**

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**From:** Thomas Capdevielle  
**Sent:** jeudi 10 mai 2012 19:49  
**To:** habcisse@orange.fr; Gabriel Dolle  
**Subject:** CONFIDENTIEL IAAF  
**Attachments:** Note HC 10\_05\_12.docx; Courrier suivi cas RUS ABP.doc; 1st information Shobukhova 12\_05\_12.docx; Acceptance of Sanction Shobukhova.doc

**CONFIDENTIEL**

Habib,

Tu trouveras ci-joint, dans les perspective de ton déplacement prochain à Saransk :

- Une note sur l'état des lieux des cas RUS ABP accompagnée d'un courrier type pour accord
- Le courrier de 1<sup>ère</sup> notification pour l'une des athlètes accompagné du formulaire de reconnaissance d'infraction

Je te fais parvenir les documents en format word puisque tu sembles avoir rencontré des difficultés précédemment dans l'ouverture des documents pdf.

Bien à toi

Thomas

62. The “1<sup>ere</sup> notification” is in similar terms to the later letter of 12 June 2012 and a draft acceptance of sanction is attached. The letter states (in part):

**Ms Shobukhova can avoid a 4-year ban by promptly admitting by no later than Monday 21 May 2012 an anti-doping rule violation under IAAF Rule 32.2 (b) and by accepting an effective 2-year ineligibility as from the date of her acceptance (see *IAAF acceptance of sanction form attached*).**

63. The “note sur l'état des lieux des cas RUS ABP” refers to thirteen cases by name. The note refers, in so far as LS is concerned, to the attached first notification and states:

**1. Liliya SHOBUKHOVA (marathon)**

- Proposition de 2 ans de suspension à partir de la date de signature de la reconnaissance d'infraction avec annulation rétroactive des résultats à compter du 9.10.09
- Courrier de 1<sup>ère</sup> notification et formulaire de reconnaissance d'infraction ci-joints

Résultats notables en compétitions internationales :

- Vainqueur du marathon de Chicago 2009 (100.000 \$)
- Vainqueur du marathon de Londres 2010 (à déterminer)
- Vainqueur du marathon de Chicago 2010 (100.000 \$)
- 2<sup>nde</sup> du marathon de Londres 2011 (à déterminer)
- Vainqueur du marathon de Chicago 2011 (100.000 \$)  
+
- Vainqueur du World marathon Majors series pour 2009/2010 (500.000 \$)
- Vainqueur du World marathon Majors series pour 2010/2011 (500.000 \$)

Le total devrait avoisiner les 1.5 Millions de dollars.

64. Amongst the 13 athletes names are the following athletes whose names appear in paragraph 5 of the WADA document ([20] and [41]): Borchin, Kaniskina, Zolutova and Kanayakin.

65. The note also gives the names of four athletes who had, so it is said, signed the acceptance of sanction forms on various dates in February 2012 (Alminova, Zinurova, Yulamanova and Klyuka). Attached to the email is a letter from GD to VB (sent by confidential email) concerning Yulamanova, one of the four athletes who had, so it is said, signed the acceptance of sanction form.

*June 12 2012 letter from GD to VB*

66. Thomas Capdevielle continues:

28. The first notification letter formally opening the investigations into a potential doping offence was finally issued on 12 June 2012 (TC-6).<sup>54</sup> I believe that this letter was delivered by hand to Mr. Balakhnichev by Habib Cissé. I remember that Habib Cissé delivered the signed letter back to Gabriel Dollé who, in turn, showed it to me before filing it. This was not in accordance with the normal practice. Written notices to athletes/Federations are usually sent by fax or by e-mail, except at World Championships where, exceptionally, notices are hand delivered because immediate action is required.

67. The 12 June 2012 letter from IAAF TC-6 is signed by GD and addressed to VB in his capacity as President of the ARAF. It bears the ARAF stamp acknowledging receipt on

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<sup>54</sup> [Witness statements\T Capdevielle\TC-6.pdf](#)

13 June 2012. HC was in Moscow at this time at the expense of the IAAF.<sup>55</sup> GD accepts it was delivered by HC. He wrote:<sup>56</sup>

Il est vrai que la lettre du 12 juin 2012 a été remise directement à l'ARAF par HC qui était alors en déplacement à Moscou dans le cadre de discussions commerciales concernant le futur Championnat du Monde en 2013.

Il était opportun de remettre cette lettre à Valentin Balakhnichev (VB) en main propre, car il s'agissait ici, comme parfois pour d'autres cas, de s'assurer que l'ARAF en accuse effectivement réception et de manière confidentielle.

68. The 12 June 2012 letter states:

Dear Mr. Balakhnichev,

In accordance with IAAF Rule 37.10, the IAAF has initiated an investigation into a potential anti-doping rule violation committed by your athlete, Ms Liliya Shobukhova (born 13 November 1977) pursuant to the Athlete Biological Passport programme.

The evidence that has triggered this investigation is a series of blood tests results collected in the course of the IAAF's out-of-competition blood testing programme in 2009, 2010 and 2011. Ms Shobukhova, a member of the IAAF's Registered Testing Pool, was tested on a regular basis by the IAAF during this period, for the purposes of measuring her blood variables in accordance with the IAAF Blood Testing Protocol (see attached).

The hematological profile constituted for Ms Shobukhova and comprising 5 blood variables measurements between 9 October 2009 and 7 October 2011 has been identified as being abnormal by the IAAF's adaptive model with a probability of more than 99%.

In accordance with the IAAF Anti-Doping Regulations (paragraph 6.8), Ms. Shobukhova's blood profile was submitted to an Expert Panel for an initial review on an anonymous basis. The Expert Panel includes three experts with knowledge in the fields of clinical haematology (diagnosis of blood pathological conditions), laboratory medicine/haematology (assessment of quality control data, analytical and biological variability, instrument calibration ...) and sports medicine and exercise physiology specialized in haematology.

Upon reviewing Ms. Shobukhova's blood profile, the Expert Panel unanimously expressed the opinion that, in the absence of a satisfactory explanation from the athlete, it was highly likely that she had used a prohibited substance or a prohibited method.

<sup>55</sup> [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare June 2015.pdf](#)

<sup>56</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

Moreover, the preliminary review conducted by the IAAF under IAAF Rule 37.3 did not show any TUE on file for the athlete or any departure from the IAAF Anti-Doping Regulations, the IAAF Blood Testing Protocol or the International Standard for Laboratories which could have explained this abnormal profile.

In light of the above, the IAAF is considering bringing charges against Ms Shobukhova for an anti-doping rule violation under IAAF Rule 32.2 (b) (use or attempted use of a prohibited substance or a prohibited method) and, in doing so, could be seeking a 4-year sanction on the grounds of aggravating circumstances (IAAF Rule 40.6).

Ms Shobukhova can avoid a 4-year ban by promptly admitting by no later than Tuesday 19 June 2012 an anti-doping rule violation under IAAF Rule 32.2 (b) and by accepting effective 2-year ineligibility as from the date of her acceptance (see *IAAF acceptance of sanction form* attached).

Before formal charges are brought against the athlete, she has an opportunity under the IAAF Anti-Doping Regulations (paragraph 6.13), to provide an explanation for her abnormal profile. The athlete's explanation, if any, must be provided to me in writing, in English, no later than Tuesday 26 June 2012.

You will receive shortly by courier, a complete file constituting Ms Shobukhova's Biological Passport including, for each of the 5 blood tests indicated above:

- > the doping control form
- > the chain of custody form
- > the details of the blood sample's analysis (laboratory documentation package)<sup>57</sup>

Upon receipt of Ms Shobukhova's explanation, the matter shall be referred back to the Expert Panel for further review (paragraph 6.15 of the IAAF Anti-Doping Regulations). If, following such review, the Expert Panel concludes that there is no known reasonable explanation for the abnormal profile other than the use of a prohibited substance or method, alternatively, if no explanation is forthcoming from Ms Shobukhova by the above deadline, your Federation will be required to proceed with the case as an asserted anti-doping rule violation in accordance with the disciplinary procedures set out under IAAF Rule 38 and following.

Finally, I would bring your particular attention to the fact that, in accordance with IAAF Rules, this matter must be treated by all persons concerned within your Federation with the utmost confidentiality. The IAAF will ensure that confidentiality is strictly maintained until expiration of the confidentiality period under IAAF Rules, and cannot be held responsible or any premature breach of confidentiality by a third party.

We remain at your disposal for any question/clarification arising from this letter.

(Highlighting added)

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<sup>57</sup> The complete file was sent, see [Witness statements\Balakhnichev\12. Email response 03 10 2014 to letters of 08.09.2014 and 15.09.2014.pdf](#)

69. HC's involvement in this period with the cases concerning LS and other Russian athletes seems clear.

*The failure of VB to take action following 12 June 2012 letter and failure of GD to follow up*

70. VB never replied in writing to the June 12 letter.

71. I asked him about this in letters dated 8 and 15 September 2014. VB replied in an email to me dated 3 October 2014:<sup>58</sup>

1. I accept that action should have been taken on receipt of the letter dated 12 June 2012 from Dr Dollé. Certain action was taken, as set out below.

2. This was the first time I was aware of the athlete's abnormal blood profile. I did receive the complete file at about the same time.<sup>59</sup>

3. Following receipt of Dr Dollé's letter, I discussed its contents, and the question of the athlete's participation in the forthcoming Olympic Games with Dr Dollé and with Habib Cissé on behalf of the IAAF. Their opinion was that, in view of the imminence of the Olympic Games and the fact that formal charges had not yet been brought against the athlete, she would be allowed to participate in the Olympic Games. It was a matter for the IAAF whether to impose a provisional suspension and it did not do so. Having discussed the matter with Dr Dollé, I did not also reply in writing to his letters.

4. I also contacted Alexei Melnikov the senior Russian endurance coach, on behalf of the athlete, in order to inform the athlete of the contents of the letter. I believe that the athlete was informed through Mr Melnikov of the contents of the letter although not by me personally.

5. The athlete did not give an explanation for her abnormal profile. I do not know why she did not do so initially. After competing in the 2012 Olympics the athlete informed us that she was pregnant and withdrawing from athletics.<sup>60</sup>

6. I have no knowledge of a provisional suspension in January 2013.<sup>61</sup>

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<sup>58</sup> [Witness statements\VBalakhnichiev\12. Email response 03 10 2014 to letters of 08.09.2014 and 15.09.2014.pdf](#)

<sup>59</sup> See also VB's email of 31.05.2015 where he stated: "You suggest (paragraph 3) that I knew about LS's abnormal blood profile before receiving the letter. That suggestion is incorrect. As I stated in my letter of 4 October 2014, I did not know about it. I cannot comment on the telephone conversation which you say took place between Alexei Melnikov (AM) and Andrey Baranov (AB) or the lists and other information which you say was provided to ARAF other than to say that they did not, as far as I recall, identify LS as having an abnormal blood profile."

<sup>60</sup> This is inaccurate. She only knew about her pregnancy in about January 2013 and after the Chicago 2012 marathon.

<sup>61</sup> I asked VB a question about this because there is reference to a provisional suspension dated 24 January 2013 in the April 2014 ARAF LS decision letter [98].

7. The delay in the finding of an anti-doping violation came about because of the athlete's withdrawal from athletics. I accept that the potential anti-doping violation ought to have been pursued more promptly than it was. The athlete, who was no longer competing, did not ask for any delay. The IAAF was well aware that the alleged violation had not been pursued and did not raise any objection to her participation in the Olympic Games or 2012 Chicago Marathon.<sup>62</sup>

72. In an email dated 31 May 2015 VB stated:<sup>63</sup>

"I did tell AM about the letter from Dr Dollé and I believe he would have told LS about it. I certainly did not realise that he had not done so."

73. In that same email he also wrote:

"I have accepted that the anti-doping violation should have been pursued more vigorously than it was although I would point that (i) It was not feasible to have pursued the violation in the immediate run up to the Olympic games (ii) the IAAF was well aware that the alleged violation had not been pursued and did not raise any objection to LS's participation in the Olympic Games or 2012 Chicago Marathon (iii) in early 2013 LS withdrew from competing so that a suspension was not a live issue."

74. In so far as the second paragraph of the 3 October email is concerned, GD stated to me in an email dated 9 November 2014:<sup>64</sup>

... je n'ai pas connaissance de communication de renseignements sur les profils anormaux de LS à l'ARAF ou à d'autres personnes russes avant la lettre du 12 juin 2012.

75. He also stated in an email to me dated 27 September 2014 that he was the only person at the IAAF to have contacted ARAF on the LS matter and: "Je n'ai pas signalé à mes supérieurs mes éventuelles préoccupations à propos de l'absence de réponse."<sup>65</sup>

76. I asked GD about the third paragraph of the VB email of 3 October 2014 [71] (alleged discussion following receipt of letter of 12 June). GD replied in the 9 November 2014 email, denying VB's account:

Vous me faites part d'informations que Monsieur Valentin Balakhnichev vous a données et qui seraient son explication quant à la participation de LS aux Jeux Olympiques, après avoir reçu ma lettre du 12 juin 2012 et après s'en être entretenu avec moi à ce sujet.

<sup>62</sup> [Witness statements\V Balakhnichev\12. Email response 03 10 2014 to letters of 08.09.2014 and 15.09.2014.pdf](#)

<sup>63</sup> [Witness statements\V Balakhnichev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

<sup>64</sup> [Witness statements\G Dolle\9. GD response 09 11 2014 to letter of 02 11 2014.pdf](#)

<sup>65</sup> [Witness statements\G Dolle\5. GD response 27 09 2014 to letter of 08 09 2014.pdf](#)

Pour ma part, mon courrier du 12 juin était sans équivoque (s'agissant d'un courrier type envoyé aux Fédérations membres le cas échéant), enjoignant à l'ARAF de procéder à l'instruction de ce cas de suspicion d'infraction aux Règles antidopage de l'IAAF. La procédure à suivre y était clairement décrite, conformément au Règlement antidopage de l'IAAF.

77. In his email of 17 June to me with his comments on my letter to him dated 7 June 2015,<sup>66</sup> GD wrote:<sup>67</sup>

A propos de la suspension provisoire de l'athlète, je confirme ce que j'ai déjà écrit à ce sujet concernant la suite à donner par l'ARAF après ma lettre du 12 juin 2012<sup>68</sup> et TC vous le rapporte également. N'ayant pas eu d'information contraire en retour, je pouvais seulement me fier à la véracité des propos de VB. Je maintiens également mon explication donnée le 3 octobre 2014.<sup>69</sup>

Enfin, vous affirmez l'existence de preuves d'un accord entre l'ARAF et l'IAAF au sujet de LS dans le but de ne pas ternir l'image de Moscou 2013. Je ne peux pas croire à un tel arrangement, connaissant la rigueur et la détermination de l'IAAF dans le domaine de l'antidopage.

...

- Je réfute catégoriquement l'idée infamante selon laquelle j'aurais pu faire « partie d'un complot avec VB, HC et d'autres à soutirer de l'argent à LS... ».

Soutenir une telle idée sans en apporter la preuve relève de la diffamation et m'autorise à prendre les dispositions, le cas échéant, nécessaires pour préserver ma réputation et mon honneur.

- Je réfute également catégoriquement l'idée selon laquelle « VB, HC et d'autres vous ont menti et vous ont manipulé de ne pas prendre d'action en face du refus d'ARAF d'agir ».

- Enfin, je réfute l'idée de ce que vous appelez « mon défaut d'agir ». En effet, il appartenait à ARAF d'initier, de conduire la procédure disciplinaire et de la conclure. Je n'ai rien fait qui empêchait ARAF d'agir et de prendre les mesures appropriées à l'encontre de l'athlète.

78. In so far as VB's statement ([71]) that he believed that AM informed LS about the June 12 letter, LS and IS say that they were never told about the June 12 2012 letter (or any later letter) and were never asked for the information for which the letter asked. The first

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<sup>66</sup> [Witness statements\G Dolle\13. GD final request 07 06 2015.pdf](#)

<sup>67</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

<sup>68</sup> This appears to be a reference to what GD had written in his email of 31 August 2014: [Witness statements\G Dolle\2. GD response 31 08 2014 to letter of 16 07 2014.pdf](#)

<sup>69</sup> [Witness statements\G Dolle\7. GD response 03 10 2014 to email of 29 09 2014.pdf](#)

they were to know about what had happened in 2012 (and later) between ARAF and the IAAF was in 2014.<sup>70</sup>

79. AM states, on 1 July 2015, in answer to a question from me about this letter:<sup>71</sup>

I have never received a copy of this letter. I was told that the IAAF had sent a letter concerning Ms Shobukhova and was asked as a senior coach of the national team (endurance events) to contact her and to advise her that the doping accusations had been brought against her. I was not aware that no action was taken on the letter. Concerning the letters of the IAAF dated 3 December 2012 and 15 February 2013 I have never received copy of these letters but I knew that the IAAF had sent some letters concerning Ms Shobukhova.

80. Thomas Capdevielle states:

30. To my knowledge, the IAAF never received any explanation from the athlete.

31. In accordance with IAAF Anti-Doping Rules (37.14) and Regulations, in the absence of an explanation from the athlete, she should have been at least formally charged with an antidoping rule violation and, although there is no regulatory provision requiring it, she should have been subsequently suspended provisionally.

32. When I asked Gabriel Dollé between June 2012 and the Olympic Games period, why the athlete had not been officially charged or provisionally suspended, he answered that the Russian Athletic Federation (Mr. Balakhnichev) told him (i) that the athlete had been duly informed (ii) that she had withdrawn from competition on a voluntary basis and (iii) that she would sign an acceptance of sanction.

33. I was not surprised at the time, as all Russian athletes charged with an anti-doping rule violation on the basis of an abnormal ABP profile before June 2012, had withdrawn from competition and signed an acceptance of sanction promptly after the first notification.<sup>72</sup>

81. In so far as paragraph 33 is concerned, see [65].

82. I asked GD on 7 June 2015 about the account given by Thomas Capdevielle in paragraph 32.<sup>73</sup> GD did not deal with this issue in his reply.<sup>74</sup>

83. GD wrote in his 31 August 2014 email:<sup>75</sup>

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<sup>70</sup> [Witness statements\Lilya and Igor Shob\LS Answer to IAAF Appeal Brief.pdf](#), submitted on 6 Jan 2015; paras. 1.4 and 1.5.

<sup>71</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

<sup>72</sup> [Witness statements\T Capdevielle\WS 1 T Capdevielle 02 02 2015.pdf](#)

<sup>73</sup> [Witness statements\G Dolle\13. GD final request 07 06 2015.pdf](#), paras. 33 and 34.

<sup>74</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

<sup>75</sup> [Witness statements\G Dolle\2. GD response 31 08 2014 to letter of 16 07 2014.pdf](#)

## 2. Suspension provisoire de l'athlète

...

b. Des rappels ont été adressés à l'ARAF sur le retard de gestion de ce cas par téléphone et courrier (ex. de courriels : 3 décembre 2012, 15 février 2013). En fait, l'athlète avait arrêté la compétition entre temps au début de 2013, notamment du fait de sa grossesse que nous avons apprise alors.

84. I asked him for more detail in a letter dated 8 September 2014<sup>76</sup> and he replied on 27 September:

Il n'y a pas d'autres correspondances adressées à l'ARAF à propos de l'absence de réponse à la lettre du 12 juin 2012 et il n'est pas possible de retrouver des appels téléphoniques à ce sujet.

Des rappels ont été faits verbalement à certaines occasions :

- Lors de mes quelques déplacements à Moscou (réunion du Conseil de l'IAAF, visite de site/préparation des Championnats du Monde),
- Lors de la venue du Président de l'ARAF au siège de l'IAAF (il est membre du Conseil et Trésorier de l'IAAF).<sup>77</sup>

85. In my letter to GD of 16 July 2014, I asked him:

c. Quelle mesure a été prise par la Commission Antidopage de la Fédération Russe d'Athlétisme en réaction à l'information sur le profil sanguin anormal de l'athlète ?

d. Quelles mesures, le cas échéant, avez-vous prises pour connaître les raisons du retard et, si vous avez pris des mesures pour connaître les raisons du retard, quelles sont les raisons qui vous ont été données ?

e. Avez-vous reçu l'explication d'une personne ou d'un organisme au sujet du retard, dans l'affirmatif, quelle personne ou quel organisme et quelle a été votre réponse ?

f. Veuillez expliquer pourquoi, selon vous, il y avait un tel retard.<sup>78</sup>

86. I have already set out his reply in [55].

### *London 2012 Marathon*

87. LS ran in the London Olympics marathon on 5 August 2012. She did not finish the course. According to LS, IS and AB, LS underwent no blood tests in 2012, which they

<sup>76</sup> [Witness statements\G Dolle\4. Letter to GD 08 09 2014.pdf](#)

<sup>77</sup> [Witness statements\G Dolle\5. GD response 27 09 2014 to letter of 08 09 2014.pdf](#)

<sup>78</sup> [Witness statements\G Dolle\1. Letter to GD 16 07 2014.pdf](#)

found odd given her world ranking and the fact that she had been frequently tested before.<sup>79</sup>

88. Thomas Capdevielle gives his reaction to LS running in the London 2012 Marathon in the light of his belief that she would not run:<sup>80</sup>

34. ... I was sincerely shocked when I saw (while on holidays) Ms Shobukhova live on TV participating at the female marathon race of the Olympic Games in London in August 2012. I remember calling Gabriel Dollé who told me that he was also shocked and that he would call the ARAF President immediately. His reaction seemed genuine on the phone, and later when I saw him at the office.

35. I never had any convincing explanation from Gabriel Dollé as to why she competed at the Olympic Games, although she did not finish the race. I personally asked him several times after the Olympic Games to suspend her provisionally, as he was entitled to do, in his position as IAAF Anti-Doping Administrator. He never did.

*Evidence of further payments to AM by LS and IS in June and July 2012 prior to the London Marathon*

89. In the meantime LS and IS state that they made further payments to AM to enable her to compete in the Olympic marathon. The first demand, according to them, came in early June, some two weeks after HC had received, for delivery to ARAF, the IAAF notification letter sent on 10 May 2012 [59 and following]. In the first statement dated 11 March they said that the second payment was made on 18 June to Lukashkin and the third payment made on 11 July to AM.
90. AM denied that he was in Moscow on 11 July 2012 and denied receiving any payment from LS.<sup>81</sup> He produces an undated letter<sup>82</sup> which states that he stayed in “Sports South”, Kislovodsk, Upper Base from 10 to 14 July 2012. When I asked for air tickets for this trip and the emails requesting and receiving the documentation from Sports South, he replied that he had travelled by car [1597 kms from Moscow] and obtained the documentation in Kislovodsk.<sup>83</sup>

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<sup>79</sup> Paras. 44-45 of IS statement dated 11 March 2015: [Witness statements\Lilya and Igor Shob\150311 SHO-Igor Shobukhov Signed Witness Statement.pdf](#) and para. 20 of Andrey Baranov statement dated 11 March 2015 [Witness statements\Andrey Baranov\150311 SHO- Andrey Baranov Signed Witness Statement .pdf](#). But see [Witness statements\Kyle Barber\1. Emails.pdf](#) email of 05 12.14.

<sup>80</sup> [Witness statements\T Capdevielle\WS 1 T Capdevielle 02 02 2015.pdf](#)

<sup>81</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

<sup>82</sup> [Witness statements\A Melnikov\8. Annex 1 to AM's letter of 01 07 2015.pdf](#); English translation: [Witness statements\A Melnikov\9. Annex 1 Eng to AM's letter of 01 07 2015.pdf](#)

<sup>83</sup> [Witness statements\A Melnikov\Email from AM 28 07 2015.pdf](#)

91. When I informed LS and IS through Morgan Sports Law of AM's statement that he was not in Moscow on 11 July 2012, I received this reply:<sup>84</sup>

(b) On 18 June 2012, Liliya and Igor met with Melnikov at ARAF's headquarters in Moscow to pay him \$192,000 in cash. Again, since they had forgotten their sports ID, they presented their passports for a single entry permit into the building, and their visit was recorded in the log book, detailing that they were meeting Melnikov and the exact time of the visit. They were issued a ticket which Melnikov signed and they gave to security as they left the building. Please find attached Exhibit IS4<sup>85</sup> which shows that on 18 June, they boarded the 6:05am SU Flight 1235 from UFA to Moscow, and returned in the evening of the same day.

(c) On 11 July 2012, Liliya and Igor flew to Moscow with their daughter, Anna, in order to make the final payment of \$187,000 in cash. They were unable to meet Melnikov at the ARAF headquarters as they were pressed for time, and so Melnikov sent Mr Lukashkin to meet them at the airport, and they handed him the money. Afterwards, Lukashkin gave them a lift to the nearest subway station where they joined the Russian National Team at Hyatt Moscow on Nelinnaya Street, to present the official Olympic kit (a presentation organised by Nike).

Please note that the sequence of events is slightly different to the one they previously provided. Previously, Liliya and Igor described the sequence as follows:

- 12 Jan – Melnikov
- 18 Jun – Lukashkin
- 11 July – Melnikov

The correct sequence is as follows:

- 12 Jan – Melnikov
- 18 Jun – Melnikov
- 11 July – Lukashkin

Our apologises for previously confusing the chronology of events.

92. This uncorrected chronology is consistent with what Andrey Baranov told Sean Wallace Jones in April 2015 [134] and what LS said to WADA in August 2014.<sup>86</sup>

93. In the light of the fact that LS and IS were now saying that the order of events was:

- 12 Jan – Melnikov
- 18 Jun – Melnikov
- 11 July – Lukashkin,

<sup>84</sup> [Witness statements\Lilya and Igor Shob>Email from Morgan Sports Law 02 07 2015.pdf](#)

<sup>85</sup> [Witness statements\Lilya and Igor Shob\Exhibit IS4 - Liliya \\_Igor boarding passes \\_ electronic ticket - Moscow....pdf](#)

<sup>86</sup> [Exhibits\Ex 7 08-11-2014 WADA LS Debriefing Report.pdf](#)

I asked Morgan Sports Law to let me have an amended version of paragraphs 34-42 of their original statement. The amended version is dated 16 July 2015.<sup>87</sup> I shall quote the amended version which helpfully makes it clear what changes have been made.

94. According to IS (in the amended version):

30. In early June 2012, Liliya received a call from Melnikov who, to our surprise, told us that the previous payment of €150,000 (\$190,000 USD) had proved insufficient to have her name removed from the List. Melnikov explained that Liliya would now not be allowed to compete at London 2012 unless she made a further payment of €300,000.

31. We asked Melnikov who the first payment had gone to, and Melnikov said that it was provided to a lawyer (the “Lawyer”) but Melnikov did not give Liliya any further information. Melnikov once again assured us that with the payment of €300,000, Liliya’s case would be considered closed and she could then compete at London 2012 and future marathons without any difficulty. Melnikov concluded the call by telling us to gather the money together and that he would call us back in a few days with instructions for the payment, which needed to be made before London 2012.

32. We were stunned; we were now certain that ARAF was trying to extort us and that the List had been fabricated all along. ARAF knew that Liliya had won a lot of competition money in 2011 – we came to the conclusion that it was trying to get more than its usual share of the 5% commission. At the same time, however, we felt we had no choice but to comply. Melnikov was responsible for selecting the team that would compete at London 2012 – he could therefore exclude Liliya if he wanted to. London 2012 was more important to Liliya than any other competition she had ever competed in. In fact, her entire marathon career had been leading up to London 2012 so we felt we had no choice but to comply with ARAF.

33. After the call, I ordered an additional \$100,000 USD from our bank account, to place in our safe deposit box:

26.04.2012	1433-199	09	част.вклад.	20202840306510145820	100 000.00	220 903.78
05.06.2012	2611-200	09	част.вклад.	20202840306510145820	100 000.00	120 903.78

The cash took about one week to arrive.

34. On or about 14 June 2012, Liliya received a follow-up call from Melnikov who instructed us that he wanted the €300,000 in two separate payments of €150,000 in cash. The initial €150,000 payment was to be delivered to him on 17 June in Moscow. Melnikov wanted the final €150,000 payment no later than 17 July, because the Lawyer was to come to Moscow on that date. Melnikov confirmed he would accept the cash payments in equivalent USD.

<sup>87</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#)

35. Within a couple of days of this conversation, I withdrew \$200,000 USD from our safe deposit box to cover the first 150,000 Euro payment. I have tried to retrieve the records of the dates I accessed the safe deposit box, but unfortunately Sberbank Russia bank does not have that information<sup>88</sup>. I calculated the EUR-USD conversion rate myself, and worked the first payment amount out to be \$192,000 USD. I also ordered an additional \$120,000 USD from our bank account as our cash funds in the safety deposit box were running low:

10.06.2012	33-201	09	заправка,	474118401065100005242307		6.73	120 910.51
19.06.2012	834-202	09	част.вывд.	20202840306510145820	120 000.00		910.51
19.06.2012	834-203	09	комиссия	70601810006512102140	55.74		854.77

36. In the lead up to the meeting, Melnikov called us to change the day that we were due to meet him in Moscow several times, as an IAAF representative was due to arrive in Moscow, and Melnikov was waiting to be informed of his exact date of arrival. In the end, on 18 June 2012, Liliya, our daughter Anna, and I travelled to Moscow as Liliya needed to arrange her visa for the London 2012. We packed the \$192,000 USD cash in our luggage and boarded the SU Flight 1235 from UFA to Moscow at 6:05am.

~~At the airport, we were met by a driver who introduced himself as Lukashkin but he did not give us his first name. Lukashkin, who also holds a position within ARAF, was sent by Melnikov to collect the money from us. We gave the \$192,000 USD to Lukashkin, which he subsequently provided to Melnikov. Lukashkin then transported and dropped off Liliya at the British Embassy to obtain her VISA for London 2012.~~

37. We did not see Melnikov at all during our visit to Moscow on 18 June and On arrival at the Russian Federation Olympic building complex, we presented our passports for a single entry permit into the building as we had left our sports ID at home. Our visit was recorded in the log book, detailing that we were meeting with Melnikov and the exact time of the visit. We met Melnikov and I handed the \$187,000 USD, comprised of \$100 bills, to him, who placed it in his safe.

38. During the meeting, Melnikov told Liliya and I that he had met with an IAAF representative the previous day, who had arrived in Moscow on 17 June 2012. Melnikov mentioned that he had slept in his car the night before. I assumed that the meeting had gone on until the early hours of the morning, and so Melnikov spent the night in his car in order to meet us early in the morning so that he could pass on our payment to the IAAF representative visiting Moscow. I also assumed that the IAAF representative Melnikov met with the day before was the Lawyer although Melnikov did not specify his identity.

39. Melnikov then confirmed to us that Liliya was free to compete at London 2012. He informed us that he was going to meet with the Lawyer and Valentin Balakhnichev, ARAF President and IAAF Treasurer, in a hotel regarding this matter. I am not sure whether he meant that he would be meeting them that day or sometime after; he did not specify.

<sup>88</sup> See IS 3 [Witness statements\Lilya and Igor Shob\Exhibit IS3 - Letter from Sberbank Russia to Ivor Shobukhova - 13.11.14....pdf](#)

40. Before we left, Melnikov reminded us that we would need to make the final payment before 17 July 2012, and accordingly we arranged to meet on 11 July as Liliya was already due to attend a Nike presentation in Moscow that day. We returned to Beloretsk at 5.45pm the same evening.

41. The next day, we received a call from Melnikov ~~who confirmed that he had received the money from Lukashkin~~. Melnikov instructed Liliya to return to Moscow on 25 June to collect her Olympic kit. He also asked Liliya whether she was going to Kislovodsk to train but Liliya told him that it was too late to train in the mountains now, as she was originally meant to go in May. Melnikov was fine with this and did not insist that Liliya go to Kislovodsk.

95. They produce tickets and boarding passes for the journey to and from Moscow.<sup>89</sup>

96. I asked AM where he was on 18 June and he replied:<sup>90</sup>

I do not remember exactly where I was ... on 17 and 18 June 2012.

I assume that ... on 17 and 18 June 2012 I could be in Cheboksary at Russian National Youth Athletics Championships or in Moscow.

For more detailed information and documentary evidence I need more time.

97. IS refers in his statement to “the Lawyer”. In paragraph 34 (set out above) IS writes:

The initial €150,000 payment was to be delivered to him on 17 June in Moscow. Melnikov wanted the final €150,000 payment no later than 17 July, because the Lawyer was to come to Moscow on that date.

98. HC did in fact come to Moscow on 18 July 2012 and was there, at IAAF expense, until 21 July.<sup>91</sup> There is no reason to believe that IS and LS would have known that HC was coming to Moscow at that time apart from being told so by AM.

99. Given the references in paragraph 36 and of the IS amended statement to an IAAF representative coming to Moscow, I have made enquiries to ascertain whether PMD travelled to Moscow at this time.<sup>92</sup> I have not received the details.<sup>93</sup> HC was in Moscow

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<sup>89</sup> See IS 4 [Witness statements\Lilya and Igor Shob\Exhibit IS4 - Liliya \\_ Igor boarding passes \\_ electronic ticket - Moscow...pdf](#)

<sup>90</sup> [Witness statements\A Melnikov\Email from AM 28 07 2015.pdf](#)

<sup>91</sup> [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare June 2015.pdf](#)

<sup>92</sup> [Witness statements\PMD\12. Emails to and from PMD re travel.pdf](#) ; [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare re PMD trave July 2015.pdf](#)

<sup>93</sup> Cheikh Tiare replied that he was abroad until 3 August and: “I'll try my best to avail you of whatever information that would be both relevant and available to me. I can however not say for sure if I'll be able to do so in due course.” PMD wrote “Message received and will follow up if possible to compile” and “I do not control the process of getting the information so i cannot guarantee you meeting your deadline [1 August 2015]”.

at IAAF expense from 10 June 2012 to 13 June 2012.<sup>94</sup> There is no evidence that he was in Moscow on 18 June.

100. IS's amended statement continues:

Third payment to ARAF on 11 July

42. On 11 July, Liliya and I returned to Moscow with our daughter, Anna, to make the final €150,000 payment<sup>s</sup>. I had calculated the exchange rate conversion to amount to \$187,000 USD. A few days prior to our departure, I returned to our safe deposit box and withdrew the necessary cash funds, which I wrapped in transparent plastic bags.

43. We met Melnikov at the Russian Federation building complex. I handed the \$187,000 USD, comprised of \$100 bills, to Melnikov, who placed it in his safe. We were met at the airport by a driver who introduced himself as Lukashkin but he did not give us his first name. Lukashkin, who also holds a position within ARAF, was sent by Melnikov to collect the money from us. We gave the \$192,000 USD to Lukashkin, which he subsequently provided to Melnikov. Lukashkin then transported us to the nearest subway station, where we went on to join the Russian National Team at Hyatt Moscow on Nelinnaya Street, to present the official Olympic kit at a Nike organised presentation.

Melnikov then confirmed to us that this was the final payment and Liliya was now able to compete at London 2012. Melnikov informed us that he was going to meet with the Lawyer and Valentin Balakhnichev, ARAF President and IAAF Treasurer, in a hotel regarding this matter. I am not sure whether he meant that he would be meeting them that day or sometime after; he did not specify.

43. By this point, we were sure that we had been extorted but we decided to accept what had happened and move on. Our relationship with ARAF was not the same anymore – we no longer trusted it and were concerned about the future. After all, if ARAF had pulled this trick on us once, there was nothing to stop it from doing it again.

IS produces the air tickets for the journey.<sup>95</sup>

101. AM denied that that asked Mr Lukashkin to collect money from anybody including LS and IS.<sup>96</sup> AM says that he was in Kislovodsk from 10 to 14 July 2012 [90].

102. AM says that Lukashkin is a coach of the national athletics team.<sup>97</sup> The name Nikolay Nikolaevich Lukashkin appears on a document dated 12 March 2014 (see below [141] in which he is described “as a senior coach of the Russian Athletics team”). I asked AM

<sup>94</sup> [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare June 2015.pdf](#)

<sup>95</sup> [Witness statements\Lilya and Igor Shob\Exhibit IS5 - Liliya \\_ Igor electronic flight ticket - Magnitogorsk to M....pdf](#)

<sup>96</sup> [Witness statements\A Melnikov>Email from AM 28 07 2015.pdf](#)

<sup>97</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

for Lukashkin's full name and he replied: "The full name of Mr Lukashkin is NIKOLAY NIKOLAEVICH (Николай Николаевич)".<sup>98</sup> It follows that the person who IS and LS (now) say received the third payment on 11 July, was the same person whose name appears on the 12 March 2014 document as a witness.

*The Chicago Marathon 2012 and IAAF letter to ARAF dated 3 December 2012*

103. LS also competed in the Chicago 2012 marathon on October 7 coming in fourth, 56 seconds behind the winner.

104. Thomas Capdevielle states:<sup>99</sup>

36. We (with other colleagues in the Department) were even more shocked when we found out that she competed at the Chicago Marathon in October 2012. Gabriel Dollé was not able to give us any valid explanation as to why she competed in Chicago. There were "tensions" at this time within the IAAF Medical & Anti-Doping department surrounding the case of Liliya Shobukhova. I remember asking Gabriel Dollé insistently to suspend her provisionally. In this period, I prepared a draft letter of provisional suspension, which was never sent or delivered (TC-7).<sup>100</sup>

37. On Gabriel Dollé's request, a reminder letter was sent on 3 December 2012, granting the athlete a further opportunity to accept a 2-year sanction, to bring her case to a conclusion (see file) and asking ARAF to pursue her case as an anti-doping rule violation should she decide not to accept a 2-year sanction (TC-8).<sup>101</sup> As for the 12 June 2012 letter, this letter was hand delivered, I assume by Habib Cissé.

105. The draft letter from IAAF to ARAF pronouncing provisional suspension<sup>102</sup> is dated 3 December 2012, but was not apparently drafted (at least in the form in which I have it) until early 2013. The letter refers to the pregnancy of LS which was not known about until about January 2013.<sup>103</sup> The letter also states: "Despite a reminder sent on 3 December 2012".

106. I turn to the 3 December "reminder" letter. Thomas Capdevielle assumes that the letter was delivered by HC. There is evidence to which I refer below [116] which shows that HC was in Moscow at this time.

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<sup>98</sup> [Witness statements\A Melnikov>Email from AM 28 07 2015.pdf](#)

<sup>99</sup> [Witness statements\T Capdevielle\WS 1 T Capdevielle 02 02 2015.pdf](#)

<sup>100</sup> [Witness statements\T Capdevielle\TC-7.pdf](#)

<sup>101</sup> [Witness statements\T Capdevielle\TC-8.pdf](#)

<sup>102</sup> [Witness statements\T Capdevielle\TC-7.pdf](#)

<sup>103</sup> [Witness statements\Lilya and Igor Shobukhov Signed Witness Statement.pdf](#) para.

47. See further below.

107. The 3 December IAAF “reminder” letter which was sent to the ARAF is addressed to VB, bears an ARAF stamp and a date of receipt of 7 December 2012. It states:

Dear Mr. Balakhnichev,

I write to follow-up on the notification letter handed to you on 13 June 2012 in relation to the above referenced case (see copy attached).

We have not heard from you or the athlete since then.

I would now kindly ask you to ensure that this letter is immediately notified to Ms Shobukhova and to inform her of the following new deadlines:

(i) she has until **Monday 10 December 2012** to sign and return the IAAF acceptance of sanction attached;

(ii) If she does not wish to sign the IAAF acceptance of sanction form, she has until **Monday 17 December 2012** to provide a written explanation for her abnormal Athlete Biological Profile. Her explanation will be referred to the IAAF Expert Panel for review, as per IAAF Anti-Doping Regulations.

If we do not hear from her by the above deadline, your Federation will be required to proceed with the case as an asserted anti-doping rule violation in accordance with the disciplinary procedures set out under IAAF rule 38 and following.

108. The passage: “We have not heard from you … since then”, is in conflict with the account of VB and the account of GD<sup>104</sup>, unless the word “formally” is inserted before the word “heard”.

109. No action was taken on this letter. AM states as to this letter and the later letter of 15 February 2013:

“Concerning the letters of the IAAF dated 3 December 2012 and 15 February 2013 I have never received copy of these letters but I knew that the IAAF had sent some letters concerning Ms Shobukhova.”

Neither AM nor VB suggest that LS was told about the letter.

#### *AM call to LS in December 2012*

110. IS gives an account of a further call in December from AM:<sup>105</sup>

#### December 2012 and pregnancy

<sup>104</sup> See paras 58 and 74 above.

<sup>105</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#). There is a slight mismatch between the paragraph numbers in the IS first statement and amended statement.

47. On 1 December 2012, Liliya attended a National Team training camp in Kislovodsk, Russia, which was meant to last for four weeks in total. While there, Liliya received a call from Melnikov, who told her that her eligibility to compete in 2013 was in question. Melnikov explained that in order for Liliya to compete, “they” would probably want more money. He did not tell Liliya who “they” were and Liliya was too upset to ask for clarification. Liliya told Melnikov that she did not have any more money to send him and so she would not pay.

48. After her conversation with Mr Melnikov, Liliya was very upset. She felt she had no hope of competing in 2013 and so she left the training camp one week early on 20 December. Shortly after Liliya returned home, we discovered that we were expecting our second child who was due in September 2013. We were delighted with the news and because Liliya’s main focus was now delivering a healthy child, she was no longer so worried about Melnikov’s call.

111. Although there is no evidence of the precise date of the call, if the accounts of LS and IS are true, then that would provide evidence of a link between the call, the GD letter dated 3 December and stamped as received on 7 December and the HC visit to Moscow at this time.

#### *Evidence of December 2012 meeting in Moscow*

112. Andrey Baranov gives an account of a meeting in Moscow on 4 December 2012:<sup>106</sup>

#### **The 4 December 2012 meeting**

21. On 26 November 2012, I received a three-minute telephone call from Mr Melnikov requesting that I attend a meeting in Moscow on 4 December 2012 with Mr Melnikov and ARAF President, Valentin Balakhnichev:

ROAMING CHARGES - (Continued)								
Date	Call Destination	Time	Number Called	Call Type	Minutes	Airtime Charges	Toll Charges	Total
11/26/12	Incoming	8:27 PM	347-399-1041		1	\$ 5.99	\$ -	\$ 5.99
11/26/12	Incoming	9:01 PM	78166303583		3	\$ 17.97	\$ -	\$ 17.97

22. While Mr Melnikov did not give me any reason for the meeting, he did tell me that it was important that I attend, and accordingly I agreed to attend. While I was curious as to what the proposed meeting related to, I did not question Mr Melnikov about this; when the ARAF President requests a meeting, one simply accepts the request without question.

23. At Mr Melnikov’s instruction, I met him in the Baltschug Kempinski Hotel lobby on 4 December 2012. Mr Melnikov and I sat in one section of the lobby, while three

<sup>106</sup> [Witness statements\Andrey Baranov\150311 SHO- Andrey Baranov Signed Witness Statement .pdf](#)

other men sat together at a table across the lobby having their own meeting. Those men were:

President Balakhnichev;

an IAAF Legal Advisor (who I later found out was Habib Cissé);<sup>107</sup> and

a chubby man appearing to be of African descent who was not very tall (who I now believe to be Papa Massata Diack, the son of IAAF President Lamine Diack).

24. Mr Melnikov and I waited to be invited to join their meeting. While we waited, Mr Melnikov and I chatted about various matters, much of which I do not recall as it did not seem important. However, two questions which he asked me stuck in my mind, and which I presumed (but did not know for sure) related to the purpose of me being called to the meeting. These questions were:

a. Whether I would be prepared to travel frequently if requested. I explained that this was not a problem in principle, because as part of my AR role I do a lot of travelling, which is facilitated by the fact that I am a US citizen. This seemed to be appealing to Mr Melnikov.

b. Whether I would be willing to use my bank account to conduct wire transfers. Mr Melnikov did not tell me what such transfers related to, and I did not ask – I simply said that that would not be acceptable or possible. I do not know what such transfers related to, but it did not sound like the kind of thing that I wanted to be involved with.

25. Mr Melnikov and I waited and conversed in this way for around thirty or forty minutes– Mr Melnikov did not speak with the other three men during this time. After those thirty to forty minutes, President Balakhnichev came over to our table and said it was no longer necessary for me to meet anyone. President Balakhnichev appeared as though he had concluded his meeting with the other two men, and appeared to be on his way out of the hotel lobby when he came to speak to us. President Balakhnichev mentioned that Mr Cissé needed a ride back to his hotel, and accordingly Mr Melnikov offered to drive us back to our respective hotels, which were both close by. The gentleman who I suspect to be Papa Massata Diack went upstairs in the hotel (I presume that he was a guest there), and Mr Melnikov and I met Mr Cissé outside, so that Mr Melnikov could give us a ride back to our hotels.

26. I spoke to Mr Cissé briefly during the short ride of approximately five minutes, in which time it became clear that Mr Cissé was an IAAF Legal Advisor (although I still did not know his name at that time). Mr Cissé mentioned that he liked coming to Moscow and he was returning in August 2013 for the World Athletics Championship. I got out first (at Red Square) whereas Mr Cissé was (I understood) to be dropped off

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<sup>107</sup> IN a WADA interview Baranov said that he had subsequently been shown a photo of Cissé and stated it was definitely him, see [Exhibits\Ex 7 08-11-2014 WADA LS Debriefing Report.pdf](#)

at the Ararat Hotel. I left Moscow the following day and never received an explanation as to the purpose of the proposed meeting or why I had been invited.

113. Andrey Baranov has produced documentary evidence supporting his statement that he was in Moscow on 4 December.<sup>108</sup>

114. Andrey Baranov describes in paragraph 23 of his statement as being present in the lobby “a chubby man appearing to be of African descent who was not very tall (who I now believe to be Papa Massata Diack, the son of IAAF President Lamine Diack).” I do not know whether that fits the description of PMD or a member of the Diack family.

115. PMD denies that a meeting of the kind described by Andrey Baranov took place on 4 December 2012. PMD has produced both a ticket issued in Monaco on 4 December (where he says that he had a meeting with Mr Essar Gabriel and Mrs Charline Herring) for travel by air to Moscow on 5 December and a passport copy entry which shows entry by air into Russia on 5 December.<sup>109</sup> He told me in an email dated 12 May 2015<sup>110</sup> that he did have a meeting at the Baltschug Kempinski Hotel on 6 December with VB and HC about a marketing deal. He did not see Andrey Baranov there or at any other time in his travels in Russia.

116. VB, on the other hand, says this on 31 May 2015 about a meeting on 4 December<sup>111</sup>:

The meeting on in Moscow 4 December 2012 (paragraph 10 [of my letter to him<sup>112</sup>]) was arranged for the purpose of discussing a possible sponsorship deal between VTB and the IAAF. AB was not invited to that meeting, as far as I am aware. I did not tell AB that it was no longer necessary to meet with him although I may have made clear to AB, who had turned up at the hotel where the meeting was taking place, that he had no role to play in the meeting.

In a subsequent email on 1 June 2015 he wrote:<sup>113</sup>

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<sup>108</sup> [Witness statements\Andrey Baranov\Flight confirmation - 3.12.12.pdf](#); [Witness statements\Andrey Baranov\Flight confirmation - 5.12.12.pdf](#); [Witness statements\Andrey Baranov\Hotel Metropol Moscow reservation 3-5 December 2012.pdf](#). They were sent to me by Yama Otung of Morgan Sports Law by email dated 16 June 2015 at 10.20 am. In an email dated 15 June 2015 at 17.09 she wrote: “AB is 100% sure that the meeting took place on 4 December. He says that his return flight from Moscow on 5 December was too early in the day for the meeting to have taken place on that day, and he also remembers checking out of his hotel early on 5 December to avoid delays due to Moscow traffic on the way to the airport.”

<sup>109</sup> [Witness statements\PMD\10. PMD response 11 05 2015 to letter of 01 05 2015 .pdf](#)

<sup>110</sup> [Witness statements\PMD\11. Emails re letter of 1 05 2015.pdf](#)

<sup>111</sup> [Witness statements\V Balakhnichev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

<sup>112</sup> [Witness statements\V Balakhnichev\31. Revised final letter 29 04 2015.pdf](#)

<sup>113</sup> [Witness statements\V Balakhnichev\33. Email from VB re December 2012 meeting.pdf](#)

... the meeting on 4 December 2012 was attended by myself, Massata Papa Diack and Habib Cissé. The meeting lasted about 1 hour. The meeting was in the morning but I don't remember the exact time.

117. HC was in Moscow at IAAF expense from 3 to 6 December, with, so seems likely, the 3 December letter [106].<sup>114</sup> The reason given for the travel in the IAAF records is: "TV contract- RVR".<sup>115</sup>

118. When Andrey Baranov made his original allegations to Sean Wallace-Jones in 2014, he said that the meeting took place in December 2011.<sup>116</sup> In an email dated 27 April 2014 to Michael Beloff QC, Sean Wallace-Jones wrote: "It appears that he [Andrey Baranov] has checked his travel receipts and had made an error in telling me that the meeting in Moscow was in December 2011 and was in fact on 4 December 2012." AB wrote in a statement he sent to Mr Michael Beloff QC dated 27 April 2014, that the meeting took place on 4 December 2012.<sup>117</sup>

*Huw Roberts*

119. Huw Roberts, at that time legal counsel to the IAAF, describes how he became aware of the LS problem towards the end of 2012:<sup>118</sup>

9. I first became aware of a problem in the management of the Russian ABP cases at some point in the fourth quarter of 2012 when I understood from Mr Capdevielle and Dr Garnier that there were delays in progressing a number of the Russian cases and that at least one of the athletes concerned had competed at the Olympic Games in London. I understood this athlete to be Liliya Shubokhova. We agreed between us that, if the outstanding cases had not been resolved by the end of the year, action would need to be taken and I would intervene in the matter directly with the President.

10. On the last working day before the IAAF Office closed for Christmas in December 2012, Mr Capdevielle came to my office and told me that 6 Russian ABP cases, including that of Ms Shobukhova, remained unresolved.

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<sup>114</sup> [Witness statements\Cheikh Thiare\Correspondence with Cheikh Thiare June 2015.pdf](#)

<sup>115</sup> Ibid.

<sup>116</sup> [Witness statements\Andrey Baranov\Statement of S W-J countersigned by AB.pdf](#)

<sup>117</sup> [Witness statements\Andrey Baranov\AB to Michael Beloff dated 27 04 2014.pdf](#)

<sup>118</sup> [Witness statements\WS 2 H Roberts 17 03 2015.pdf](#)

## **Evidence- 2013**

*Huw Roberts - continued*

120. Huw Roberts continues his account:

11. Immediately following my return to Monaco, in early January 2013, I arranged to travel to Dakar in Senegal to meet with the President [of the IAAF]. The travel was arranged through the President's Director of Cabinet, Cheikh Thiaré. I told Mr Thiaré that the meeting was of extreme importance but did not go into further detail.

12. I travelled to Dakar on 8 January 2013 and met with the President at his office the following day.

13. I came straight to the point at the meeting and asked the President whether there was an agreement not to proceed with 6 Russian ABP cases and he confirmed that there was. I told him in the circumstances that I had no option but to resign from my position with the IAAF. He refused to accept my resignation and told me that I should not be concerned about the matter. He assured me that the Russian ABP cases would all be dealt with in accordance with IAAF Rules in due time and that none of the athletes would compete in the sport in the meantime. The meeting concluded and I left Dakar later the same day to return to Monaco.

14. I next met with the President following his return from the IAAF Council Meeting in Moscow in April 2013. He told me again that the Russian ABP cases would all be dealt with in due time in accordance with IAAF Rules but there was a concern in the short term about how the cases might have a negative impact upon the World Championships which were due to be held in Moscow that summer. He assured me again that none of the athletes would compete, including at the World Championships.

15. In July 2013, a couple of weeks before the World Championships in Moscow were due to start, I was informed by Mr Capdevielle that some of the Russian athletes with pending ABP cases had been entered by the Russian Athletics Federation to compete at the Championships. By this point, I understood from Mr Capdevielle that the number of outstanding ABP cases involving Russian athletes had risen from 6 to 9.

16. This information about Russian athletes intending to compete at the World Championships was contrary to the specific assurance that I had been given by the President in April and I immediately called a further meeting with him in Monaco at which I tendered my resignation from the IAAF for a second time. Again, he refused to accept the resignation and assured me that no Russian athlete on the entry list with a pending ABP case would compete at the World Championships in Moscow.

17. I was due to be present in Moscow for the whole period of the World Championships in August 2013 but I delayed my travel until I had confirmation that none of the Russian athletes with pending ABP cases would compete there, in line

with the President's assurance to me. Once this information was confirmed, I travelled to Moscow for the final weekend of the Championships.

18. On return from Moscow, I had another meeting with the President in Monaco when he advised me that the outstanding Russian ABP cases would all be resolved by 31 October 2013.

19. The deadline of 31 October 2013 came and went and Mr Capdevielle advised me that the cases remained outstanding. The President was not in Monaco at the time but I spoke to Mr Thiaré in his absence and told him that I would wait until the end of the year and that, if the cases had still not been resolved by then, I would resign from the IAAF for a final time.

20. The 6 Russian ABP cases remained outstanding at the end of 2013. (Underlining added)

121. The six Russian ABP cases outstanding at the end of 2013 referred to in paragraph 20 of this statement are the six mentioned in the WADA document, [20] and [41]. Huw Roberts resigned with effect from 11 April 2014 because the cases had still not been resolved.<sup>119</sup>

122. In the light of the statement of Huw Roberts, I wrote the following letter to the President:<sup>120</sup>

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<sup>119</sup> [Witness statements\WS 2 H Roberts 17 03 2015.pdf](#), para. 25. See also [Witness statements\Lamine Diack\May June emails to President.pdf](#)

<sup>120</sup> [Witness statements\Lamine Diack\1. Letter 4 May 2015 to the President.pdf](#)

1. I do not need to trouble you with the details of all the evidence which I now have. But the following may help you to answer the questions which I shall set out below in bold and for which I would be very grateful for a response as soon as possible.
2. I would be very grateful if you would keep this letter and your reply confidential.
3. In 2011 it became clear to Dr Dollé and others in his department that a number of Russian athletes appeared to have abnormal blood profiles (ABP). In November 2011 Dr Dollé decided that Maître Habib Cissé was to be officially involved in the management of the Russian ABP cases.
4. **Were you aware of this at the time or later, and, if so, when?**
5. There is evidence that this was the first time that Habib Cissé had been involved in the management of doping cases at the national level and that involving him in the management of cases was unusual.
6. **Would you agree?**
7. In December 2011 the IAAF received a report from an expert panel which unanimously had reached the conclusion that, in the absence of a satisfactory explanation from Lilya Shobukhova (LS), it was highly likely that she had used a prohibited substance or a prohibited method. Upon receipt of the report it was decided by Dr Dollé not to ratify, at that time, a world record which LS had set when running the Chicago Marathon in 2011.
8. On June 12 2012 Dr Dollé wrote a letter to Mr Balakhnichev (VB) informing him of the report of the panel. The letter was hand delivered to VB by Habib Cissé on 13 June. In the letter VB was informed that the IAAF was considering bringing charges against LS and that she could avoid a 4-year ban by admitting, by no later than Tuesday 19 June 2012, an anti-doping violation and by accepting a two year ineligibility and disqualification from 9 October 2009. The letter also informed VB that before formal charges were brought, the athlete was to be given an opportunity to provide an explanation. VB was informed that, if no explanation from LS was forthcoming by the deadline, ARAF would be required to proceed with the case as an asserted anti-doping violation in accordance with the appropriate disciplinary procedures.
9. The action required of ARAF in the letter was not taken, as also the action required in subsequent similar letters sent in December 2012 and in March 2013 to VB by Dr Dollé. There is evidence that LS was not informed about the letters.
10. No disciplinary proceedings were taken against LS until April 2014.
11. There is evidence that LS paid €450,000, in three tranches, to her Russian coach, Alexei Melnikov, in the first six months of 2012 to avoid disciplinary sanctions being taken against her and that €300,000 of that was repaid to her in late March 2014. There is no doubt that LS received €300,000 at that time from a Singapore Bank and that VB knew about the transfer. However, he denies any wrongdoing.
12. **Do you agree that LS ought not to have competed in the marathons given the report of the panel and the absence of any explanation from LS?**

13. VB has told me:

*Following receipt of Dr Dollé's letter [of 12 June 2012], I discussed its contents, and the question of the athlete's participation in the forthcoming Olympic Games with Dr Dollé and with Habib Cissé on behalf of the IAAF. Their opinion was that, in view of the imminence of the Olympic Games [which were due to start in July 2012] and the fact that formal charges had not yet been brought against the athlete, she would be allowed to participate in the Olympic Games. It was a matter for the IAAF whether to impose a provisional suspension and it did not do so. Having discussed the matter with Dr Dollé, I did not also reply in writing to his letters.*

14. If this account by VB of what happened in about June 2012 is true, there was an agreement between officials of the IAAF and of ARAF to allow LS to compete in the marathons.

15. Dr Dollé denies being involved in any such agreement.

**16. Was there such agreement to your knowledge? If so, please explain how and when you became aware of the agreement and please give me as much detail as you can about the agreement.**

17. If VB's account is not true, then it may be that in 2012 ARAF falsely misled the IAAF into believing that that LS would not compete in the marathons.

**18. To your knowledge were the IAAF misled in this way by ARAF in 2012? If so, please give me the details.**

19. There is evidence that in 2013 action there was an agreement between officials of ARAF and of the IAAF that:

a. no action would be taken against LS and other Russian athletes found to have abnormal blood profiles because of concern that the taking of action might have a

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negative impact on the 14<sup>th</sup> IAAF World Championships due to be held in Moscow in August 2013; and

b. that, in the meantime, the athletes would not compete (LS was by now pregnant and could not compete).

**20. Was there such agreement to your knowledge? If so, please explain how and when you became aware of the agreement and please give me as much detail as you can about the agreement.**

**21. Finally, if there is any further help you can give me. I would be grateful for it.**

123. The President replied:<sup>121</sup>

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<sup>121</sup> [Witness statements\Lamine Diack\2. Letter 22 06 15 from President.pdf](#)

I confirm that I was aware that Maître Habib Cissé, attorney at law in Paris, was in regular contact with the Medical and Anti-Doping department and its Director Dr Gabriel Dollé, in his capacity as IAAF external juridical adviser, notably as regards doping matters and cases.

Dr Dollé, the Anti-Doping Administrator was in charge of the procedural management of cases. It was therefore within his powers to deal with them as he deemed it appropriate, notably by seeking assistance from knowledgeable professionals including Maitre Habib Cissé.

As for doping in Russia, it must be clearly stated that it had for years been a major concern for the IAAF.

Due to the long standing and widely recognised efficiency of the IAAF Anti-Doping Department, I did not really exercise the hands-on monitoring and follow-up which were necessary. My heavy involvement in political activities in my country at an earlier stage and during that crucial period did not help either.

In any case, the information given to our Member Federation by the Department should have been enough to stop LS from taking part further in competitions.

Finally, I must say very clearly that I am not aware of any so-called arrangement being allegedly concluded between the IAAF and ARAF officials as concerns the participation of LS in the Olympic Games.

#### 124. GD also denies any agreement between ARAF and the IAAF:<sup>122</sup>

Enfin, vous affirmez l'existence de preuves d'un accord entre l'ARAF et l'IAAF au sujet de LS dans le but de ne pas ternir l'image de Moscou 2013. Je ne peux pas croire à un tel arrangement, connaissant la rigueur et la détermination de l'IAAF dans le domaine de l'antidopage.

*Letter to VB from GD dated 15 February 2013*

#### 125. Another letter about LS and other athletes (whose names were redacted on the copy produced by Thomas Capdevielle) was sent on 15 February 2013, which includes reference to a possible IAAF provisional suspension:<sup>123</sup>

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<sup>122</sup> [Witness statements\G Dolle\15. GD Response Déclaration écrite finale 17 06 to letter of 07 06 2015.pdf](#)

<sup>123</sup> [Witness statements\T Capdevielle\TC-9.pdf](#).

**Mr. Valentin Balakhnichev**  
President  
ARAF

By confidential e-mail

Monaco, 15 February 2013

Dear Mr. Balakhnichev,

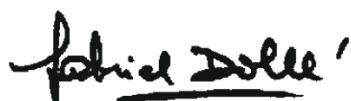
I have been informed that the first notification letters regarding the cases of [REDACTED] had duly been handled to you and I am looking forward to receiving the corresponding receipts of delivery of the above letters by return.

As you are aware, your Federation is now required to follow-up on these letters and to inform immediately the athletes on their content and notably on their right to provide an explanation or, alternatively, to accept a provisional suspension pending resolution of their case by ARAF.

I take this opportunity to kindly remind you to provide us also urgently with an update regarding the case of Ms Shobukhova which is still outstanding despite several reminders on our part.

I am looking forward to receiving the above documented information by return.

Kind Regards



Dr. Gabriel Dollé  
IAAF Anti-Doping Administrator

*Evidence from LS and IS of what happened in late 2013*

126. As I have already said, LS realised in about January 2013 that she was pregnant and unable to compete.

127. IS gives the following account of what happened later in 2013:<sup>124</sup>

49. On 7 September 2013, Liliya gave birth to our baby daughter, Yelizaveta. I cannot recall the exact date but at the end of November or in early December 2013, Liliya called Melnikov to let him know that she wanted to return to training and competition in 2014. Melnikov was very calm during the call and confirmed that he was fine with Liliya's decision. Liliya started training again in December.

50. At the end of December 2013, Melnikov notified Liliya that she would have trouble competing in 2014. We were both very upset by this information, and I even took the phone from Liliya to speak to Melnikov myself. It seemed clear to me that Melnikov had been deceiving us all along. We agreed to meet Melnikov in Moscow to discuss the alleged problems.

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<sup>124</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#)

## Evidence- 2014

*Evidence from LS and IS – 24 January 2014 meeting with AM*

128. IS continues:

51. On 24 January 2014, Liliya and I flew to Moscow for our meeting with Melnikov at his office. Melnikov claimed that Liliya was banned from athletics due to problems with her ABP. We just did not know what or who to believe anymore. I sensed that Melnikov wanted more money from us.

52. I was very angry. I confronted Melnikov about our three payments which totalled €450,000, and asked him what purpose the payments had served. Melnikov ignored my questions and simply said that it was impossible to resolve Liliya's eligibility problem. He then placed a document before us, which was undated and written in English. As neither Liliya nor I speak, read or write English, we could not determine the meaning or veracity of the document. However, we now understand that this document was something called an Acceptance of Sanction Form.<sup>125</sup> Melnikov urged Liliya to sign the document but we both refused. We simply did not trust him.

53. Melnikov then told us again that "they" would probably need more money but yet again, he did not tell us who "they" were. This confirmed to me what I already suspected – that ARAF was simply after our money and that this was just another attempt at extorting us. We told Melnikov that we had no money as Liliya had been out of competition for two years. We left the meeting - furious - and without the form that we now know to be the Acceptance of Sanction Form.

54. At the meeting, Melnikov had instructed us not to tell Andrey about the situation. However, upon our return to Beloretsk, we called Andrey since we did not know what else to do. We apprised Andrey of the situation, starting from the event in 2012 until the meeting earlier that day. We felt helpless; we had no money to give and were afraid of what ARAF would do to Liliya's career. Andrey advised us not to sign any documents and to demand that Melnikov repay the €450,000 we had paid ARAF in 2012. Andrey said that we had to persuade Melnikov to return our money by bank transfer rather than cash, in order to be able to prove our account of events.

*Investigation by Sean Wallace- Jones into allegations made by Andrey Baranov*

129. Sean Wallace-Jones, IAAF Senior Manager Road Running, gives an account in his statement of meeting Andrey Baranov on 22 February 2014 in Tokyo at the time of the Tokyo Marathon.<sup>126</sup> Andrey Baranov tells him about the payment by an athlete of half a million dollars to the Russian Federation and gives some details. The statement continues:

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<sup>125</sup> IS exhibits a form: [Witness statements\Lilya and Igor Shob\Exhibit IS6 - Acceptance of Sanction document - undated and unsigned.pdf](#)

<sup>126</sup> [Witness statements\Andrey Baranov\Statement of S W-J countersigned by AB.pdf](#)

On my return to Monaco on 25 February, I met the IAAF Deputy General Secretary, Nick Davies and reported my conversation with Baranov to him and subsequently the same day to our Legal Counsel Huw Roberts. The latter suggested that I should best speak with the President's Chef de Cabinet Cheikh Thiaré and that he would give the latter a brief on what I had told him, which I agreed to.

The following day I met Dollé for lunch, where in the course of a guarded conversation he acknowledged that there was a 'pending case' for the athlete; he told me that this would be sorted out in a very short time and certainly within 2-3 months.

On Friday 28 February, I met Cheikh Thiaré in Villa Miraflores (the Presidential Offices in Monaco) at 4pm and reported to him all of the details of my conversation with Baranov, the fact that I had spoken to Nick Davies and also my conversation with Dollé. He was extremely concerned and said that he would faithfully report all of this to President Diack and that I could expect to have a meeting with the President in the following week.

As I had no further news I called Thiaré the following week and he confirmed to me that he had spoken to the President and given him all the details as promised. The President was then travelling to Sopot in Poland for the World Indoors, so I did not expect to hear from him until after that time.

Nick Davies attended the World Indoors, travelling there with the President on 5 March. On his return he told me that he had had a breakfast meeting with Valentin Balaknichev, President of the Russian Athletics Federation and IAAF Treasurer to discuss some promotional matters. During the breakfast Balaknichev was very agitated and said that Baranov was trying to discredit him. Habib Cissé - a consultant lawyer to the IAAF then spoke with Davies and told him that the athlete would be suspended 'in a matter of days'.

130. This shows again HC's close involvement on the LS matter.

131. Sean Wallace-Jones continues:

On 28 March in the evening I met Baranov<sup>127</sup> who was in Copenhagen for the [World Half-Marathon] Championships and staying at the official hotel. He told me that his athlete had been contacted by the Russian Federation and asked to sign a paper accepting a suspension; she had been told that the Federation would pay her back 300,000 (he did not specify the currency at that time). I told him that I had to report the matter to the Ethics Commission and he said that he would provide a statement and that Shobukhova would do the same and that he was also aware of other doping cases, without giving any details as to what exactly he was aware of.

132. As will be shown below, the explanation given by VB and AM for the transfer on 28 March 2014 was that the transfer had nothing to do with any repayment and that they were merely helping LS to receive money about which they had no knowledge. If VB

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<sup>127</sup> Baranov signed the statement.

and AM were to be telling the truth about the transfer, it would have to follow that Andrey Baranov at this time was carrying out an elaborate scheme to discredit VB and AM, see further [246].

133. Sean Wallace-Jones continues:

I finally met with President Diack in Copenhagen on 30 March at his request in his suite at the official IAAF Hotel. He immediately told me that the accusations were untrue and that if there was any truth then they would be investigated. I told him that I believed that there was considerable circumstantial evidence and that investigation was certainly called for. He then proceeded to tell me about his relationship with his son Papa Massata, saying how difficult it had been and how they had not spoken for many years and that there had been a lot of resentment from his son as he (President Diack) was rarely at home due to his political and sporting commitments. This continued for a while, followed by some time telling me about all of the good things that he himself had done for sport and politics in Senegal and with the CAA. The meeting ended with the President saying that we should meet for lunch in Monaco to discuss further.

On the weekend of 4-6 April, I attended the Paris Marathon and once again met Baranov. We had little opportunity to speak, but I impressed on him that it was essential that he communicated all the information regarding the matter.

Early on 7 April I received a private message from him on Facebook giving me the name of the athlete with a list of dates and by each date the amount 150k €

A few minutes later he called me and told me that on those dates Shobukhova had withdrawn €150,000 and that these amounts had been paid in cash to a representative of the Russian Federation. On the latter two occasions, her husband had taken the cash to Moscow for the payment. He then told me that prior to these payments he had been called to a meeting in a Moscow hotel in December 2011 by the Russian Federation, where the athlete met with Balakhnichev and Cissé and the athlete was told that she was cleared to run does not accord with the account given by LS and IS. **[See below at para. 134 for Andrey Baranov's later corrected version]**. He also confirmed that following our conversation in Copenhagen the athlete had received a transfer of €300,000 from an unspecified Russian bank account in Singapore. He is attempting to have further details regarding the transfer, but said that this is not uncommon in Russia, particularly as the athlete lives in a relatively small town some distance from Moscow. When I expressed surprise both at the possibility to withdraw such large amounts of cash and also to even transfer such an amount without full identification, he told me that this is no problem in Russia.

He closed by saying that he would try to obtain CCTV footage from the hotel in Moscow, but that this would take some time.

On 12 April I met with Andrey Baranov in London at the Tower Hotel and he confirmed to me that the three payments had been made to officers of the ARAF,

namely the first and third payment to Coach Aleksei Melnikov and the second payment to a Mr. Lukashkin.

134. Andrey Baranov later corrected some of what is contained in this statement in a note to Michael Beloff dated 27 April 2014.<sup>128</sup>. In the letter Baranov wrote:

Dear Michael Beloff:

1. As I was thoroughly reading the letter again I just realized that the entire event's line is twisted. Please find the corrections below. What we have sent stays red, corrections and additions in green:
2. Early on 7 April I received a private message from him on Facebook giving me the name of the athlete with a list of dates and by each date the amount 150K € (from the bank it was withdrawn as 200,000 USD)
3. A few minutes later he called me and told me that on those dates Shobukhova had withdrawn €150,000 and that these amounts had been paid in cash to a representative of the Russian Federation - correct, sums were withdrawn and brought to Moscow on 12 Jan of 2012, 17 June of 2012 and on 10 July of 2012. Each time by 200,000 USD (the equivalent of 150,000EUR). The 1<sup>st</sup> payment was made in January. Then around May of 2012 Shobukhova was informed by the representative of the Rus. Athletic Federation that she is clear to run the Olympic Games and Chicago Marathon and may start training if making 2 more payments by 150k.
4. On the latter two occasions (in June and July), her husband had taken the cash to Moscow for the payment. Then Shobukhova ran Olympic Games (August 2012) and Chicago Marathon (October 2012) after which everything seemed ok and quiet until December meeting in 2012.
5. He then told me that prior to (AFTER) these payments (and after the fact that Shobukhova was allowed to both Olympic Games and Chicago Marathon) he had been called to a meeting in a Moscow hotel in December 2011 (Correction – December 4<sup>th</sup>, of 2012) by the Russian Federation, where the athlete met with Balaknichev and Cisse (correction - the athlete has never been at that meeting with Cisse) and the athlete was told that she would be cleared to run (correction – the fact of clearing happened before the Olympic Games and Chicago, she was told by the Rus. Fed. representative not by Cisse himself whom Shobukhova has never met directly). The entire paragraph should be corrected:

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<sup>128</sup> [Witness statements\Andrey Baranov\AB to Michael Beloff dated 27 04 2014.pdf](#)

6. On December 1st of 2012, I (AB) was contacted by the phone by the Rus. Fed. Representative to come for a meeting in Moscow. I was not explained about the reasons or details of the meeting, but had to change my air tickets as I was away for the race. On Dec 4<sup>th</sup>, 2012 at the Baltschug Kempinski Hotel in Moscow I have witnessed the meeting of Balakhnichev, Cisse and one more person (assumingly Papa – whom I have never met in person before) in the lobby of the hotel. I was not allowed at the table where the conversation of Balakhnichev, Cisse and another person (assumingly Papa) happened, and I do not know the details of their talk. I was sitting at a different table with Aleksei Melnikov, too far from them to hear the conversation. After the meeting I still wasn't explained the necessity of my presence. Later Melnikov gave me and Cisse a ride back to my hotel, and Cisse to his. The next day I had left Moscow.
7. Untill Jan-Feb of 2014 Shobukhova's matter was not touched. January and February of 2014 the Rus. Federation consistently contacts Shobukhova and pressure her to sign the paper accepting a suspension. She refuses and asks for all the payments back, but only 300,000 EUR is returned. By email they sent the confirmation about the transfer with the entire emails chain - Jean Pierre Bonnot - V.Balakhnichev – Aleksey Malnikov – to Liliya Shobukhova. The original I will send you in a separate email.
8. He also confirmed that following our conversation in Copenhagen the athlete had received a transfer of €300,000 from an unspecified Russian bank account (we don't know any details about the holder of the account, can't say it was Russian, It was made to Russia) **in Singapore** (yes, the transfer was made from Singapore to Russian bank account of Shobukhova's husband).

27 April, 2014 New York                    Andrey Baranov

*Letter GD to VB dated 3 March 2014*

135. On 3 March 2014 GD, a few days after his conversation with Sean Wallace-Jones, wrote the following letter to VB:<sup>129</sup>

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<sup>129</sup> [Witness statements\T Capdevielle\TC-10.pdf](#)

**Ref : IAAF 12-165 / Liliya Shobukhova**

Dear Mr. Balakhnichev,

I write to follow-up on our previous exchanges with respect to the above referenced file, which, as I understand, has been delayed due to the athlete's pregnancy.

I would now ask you to conclude the case as a matter of urgency and to confirm in return a sanction in accordance with IAAF rules, namely:

- (i) a 2-year ineligibility commencing on 1<sup>st</sup> February 2013 which corresponds to the period the athlete effectively withdrew from competition until 31 January 2015;
- (ii) disqualification of all her individual results as from 9 October 2009 (which corresponds to the date of the first infraction evidenced through her ABP profile according to the IAAF Expert Panel).

We are looking forward to receiving the final ARAF decision in the above referenced matter.

136. TC sent this letter to VB on the same date:<sup>130</sup>

**From:** Thomas Capdevielle  
**Sent:** lundi 3 mars 2014 16:10  
**To:** V.Balakhnichev (valentin@iaaf.ru)  
**Cc:** Gabriel Dolle  
**Subject:** IAAF case 12-165  
**Attachments:** IAAF Letter Shobukhova 3-3-2014.pdf  
  
**Importance:** High

Dear Mr. Balakhnichev,

Please see the letter attached from Dr. Dollé to your attention with respect to the above referenced matter.  
We are looking forward to hearing from you.

*Thomas Capdevielle sends acceptance of sanction form to VB and Sergey Sinelobov*

137. On 7 March Thomas Capdevielle sent to VB and Sergey Sinelobov (administrative assistant to VB and Secretary of the ARAF Anti-Doping Commission) an unsigned acceptance of sanction form in relation to LS. I return to this matter below, see [203].

*Meeting in Moscow 12 March 2014*

138. IS and LS described the events of 12-13 March 2014 in the March 2015 statement:<sup>131</sup>

54. Liliya was due to attend a Training camp in Portugal on 13 March 2014 with the rest of the National Team. However, on 12 March 2014, Liliya received yet another telephone call from Melnikov who informed her that her flight itinerary had been

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<sup>130</sup> Ibid.

<sup>131</sup> [Witness statements\Lilya and Igor Shob\150311 SHO- Igor Shobukhov Signed Witness Statement.pdf](#)

changed. Liliya was not to fly out with the rest of the National Team. Instead, she had been summoned to appear before ARAF in Moscow the following day.

55. On 13 March, we boarded a flight to Moscow and I accompanied Liliya to ARAF's offices. ...

139. I was concerned that IS and LS may have made an error about the date and I asked them to check their air tickets. I was sent the tickets which showed a booking on 11 March for an early flight on 12 March 2015 and a return late on the evening of 12 March.<sup>132</sup> LS confirmed that the tickets accurately showed the date of outward and return travel as 12 March.<sup>133</sup> The amended statement of 16 July 2105 reads:<sup>134</sup>

140. Meeting on ~~13~~ 12 March 2014

55. Liliya was due to attend a Training camp in Portugal on 13 March 2014 with the rest of the National Team. However, on ~~12~~ 11 March 2014, Liliya received yet another telephone call from Melnikov who informed her that her flight itinerary had been changed. Liliya was not to fly out with the rest of the National Team. Instead, she had been summoned to appear before ARAF in Moscow the following day.

56. On ~~13~~ 12 March, we boarded a flight to Moscow [see paragraph 139 above] and I accompanied Liliya to ARAF's offices. As usual, we had to register with security before obtaining an entry pass into the building and indicated that we were meeting with Melnikov. Oddly, Melnikov met us in the building cafeteria (instead of his office) and once again tried to force Liliya to sign the Acceptance of Sanction Form.

57. When we refused, Melnikov took us to his President Balakhnichev's office on the fourth floor. On arrival, we found President Balakhnichev waiting for us. Both Melnikov and President appeared nervous. President Balakhnichev ordered Liliya to sign the document and we both refused. President Balakhnichev advised us that if Liliya did not sign the document, she would be disqualified for four years instead of two years and would have problems returning to competition at the end of the sanction period. He did not explain what he meant by "problems", what exactly Liliya was supposedly being sanctioned for, or why a period of ineligibility would be made shorter just by signing a piece of paper.

58. Shortly after we had first found out about Liliya's alleged disqualification, we had contacted some other athletes who had previously been sanctioned for doping violations to ask them what papers they had received in relation to their case. We learned from them that they typically received three or four documents describing their doping violation. Accordingly, Liliya and I insisted at the meeting that we see the documents relating to the allegations – we were convinced that ARAF were simply trying to extort money from us. President Balakhnichev and Mr Melnikov

<sup>132</sup> [Witness statements\Lilya and Igor Shob\IS 9 Air tickets 12 03 2012.pdf](#)

<sup>133</sup> [Witness statements\Lilya and Igor Shob\22 06 2015 English translations of 3 handwritten letters from Lilya Igor.docx](#)

<sup>134</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#)

responded that we did not need to see any other papers, we just needed to sign the form.

59. I was dissatisfied with their response so I asked them to return our money. On hearing my request, President Balakhnichev turned to Melnikov, and told him to return €300,000 to us. When I queried the amount, President Balakhnichev explained that €150,000 had gone to the Lawyer and could not be returned to us. We were not told who the Lawyer is and we were too nervous to ask. I told President Balakhnichev that we wanted our money back from the Lawyer before Liliya would even consider signing any document.

60. President Balakhnichev then explained that if we requested the money back from the Lawyer, he would likely sue us. Conversely, if we did not ask for our money back, the Lawyer would help us. I did not believe that any of this was true and sarcastically asked President Balakhnichev what help the Lawyer could give. President Balakhnichev explained that the Lawyer could ensure that Liliya would receive a two-year sanction (instead of four years) and her return to competition would be smoother.

61. Melnikov continued to pressure Liliya to sign the document for a further ten to fifteen minutes after the end of the meeting. Again, we refused and we left the meeting without a copy of the Acceptance of Sanction Form.

61. We returned back to Beloretsk on the same day and Liliya did not attend the National Team training camp.

141. Both VB and AM deny the account given by LS and IS of the 12 March meeting. VB (via Mr Lenin) sent me on 9 October 2014 a signed statement in Russian dated 12 March 2014 and an unsigned translation in English which reads.<sup>135</sup>

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<sup>135</sup> [Witness statements\V Balakhnichev\17. Attachment to A Lenin email 15 10 2014 - statement in English re LS and events of 12 03 2014.pdf](#)

**STATEMENT**

MOSCOW

12 March 2014

The present statement is made by the following persons:

- 1) AGEEV ALEXEY ANATOLIEVICH - manager of the Russian National Athletics Team;
- 2) LAVSHUK NATALYA MIKHALOIVNA - senior coach of the Russian National Athletics Team;
- 3) LUKASHKIN NIKOLAY NIKOLAEVICH - senior coach of the Russian National Athletics Team;
- 4) SINELOBOV SERGEY PETROVICH - secretary of the ARAF Anti-Doping Commission.

We, undersigned, confirm that on 12 March 2014 (11 AM Moscow Time) Ms Lilia Shobukhova being in the headquarters of the All-Russian Athletics Federation (Moscow, Luzhnetskaya naberezhnaya 8, room 416) refused to receive the documents related to her anti-doping rule violation.

Also we confirm that the Secretary of the ARAF Anti-Doping Commission Sinelovov S.P. notified Ms Lilia Shobukhova about the alleged anti-doping rule violation, about her right to request an oral hearing and about possible sanctions foreseen by the IAAF Anti-Doping Rules.

\_\_\_\_\_  
AGEEV A.A.

\_\_\_\_\_  
LAVSHUK N.M.

\_\_\_\_\_  
LUKASHKIN N.N.

\_\_\_\_\_  
SINELOBOV S.P.

142. On 29 June 2015 and after LS had corrected the date of travel to 12 March from 13 March, I asked LS via Morgan Sports Law what she knew about this document.<sup>136</sup> She replied<sup>137</sup> in Russian. A rough unofficial translation of her reply is:

Good evening. On 12 March 2014 from all the people listed, I saw none of them on this day in the federation, they did not call me, they did not give me any papers, and

<sup>136</sup> [Witness statements\Lilya and Igor Shob\Email to Morgan Sports Law on 29 06 2015 re document dated 12 03 2014.pdf](#)

<sup>137</sup> [Witness statements\Lilya and Igor Shob\Email from Morgan Sports law 03 08 2015 re ARAF 12 March 2014 document.pdf](#)

Mr Sinelobov never gave me any papers, I never saw him and I do not even know what he looks like. In the meeting, it was only I, Igor, Lisa [baby daughter], Melnikov and Balakhnichev.

143. VB stated on 31 May 2015:<sup>138</sup>

I strongly dispute the version of events set out in LS's and IS's statement. I was not present at any meeting at which LS was put under pressure to sign an Acceptance of Sanction and I had no knowledge of any request for repayment. Nor was I involved in any attempt to silence AB.<sup>139</sup>

With regard to Part 3 of your letter, I was not aware of payments being made by LS to AM to avoid disciplinary proceedings nor was I involved in any attempt to cover up any payments. It follows that I am not guilty of any of the breaches of the Code of Ethics to which you refer.

Finally, I note that there is no suggestion in your letter that I received or made any payments in connection with LS. Even if what is alleged in your letter concerning the making of payments by LS to AM and representatives of the IAAF in return for being allowed to continue to compete were true, I was not involved in these payments and did not benefit from them in any way. I have sought to discharge my role as president of the ARAF honourably and conscientiously. I should not be made the "fall guy" for arrangements which I did not instigate and from which I did not benefit.

144. On 4 March 2015 AM wrote to me:<sup>140</sup>

1) As I understand from your letter, Mrs Shobukhova accused me that I allegedly received some amounts of money for her participation in OG 2012 and covering up her anti-doping rule violation. In particular, she claimed that these amounts had been given to me on certain dates in January 2012 and July 2012. I will submit documentary evidence that I could not even theoretically receive from her or her husband these amounts due to my absence in Moscow on these dates.

Moreover, it is very strange that in her statements made within the IAAF Ethics Commission and in her statements made in ARD documentary there are different amounts of money which had been allegedly given to me.

I want to underline one more time - all allegations made by her against me are false and are not supported by any evidence.

As to the second paragraph, I have read the transcript of the ARD documentary<sup>141</sup> and what LS is recorded as saying about the amounts of money seems to me to be consistent with what is said in the LS/IS statements about the amounts.

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<sup>138</sup> [Witness statements\V Balakhnichev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

<sup>139</sup> As to this, see below.

<sup>140</sup> [Witness statements\A Melnikov\5. AM response 04 03 2015 to email of 20 02 2015.pdf](#)

<sup>141</sup> [Exhibits\Ex 6. ARD Full Transcript.docx](#)

145. I wrote a letter to AM on 3 June 2015<sup>142</sup> asking about the account given by LS and IS of the conversation with VB and AM. In his reply dated 1 July 2015, he wrote:<sup>143</sup>

I am not aware about this conversation and therefore I cannot give you any further explanations in this regard.

*The transfer to IS/LS from Singapore of €300,000*

146. IS, in his statement, turns now to the events surrounding what he describes as the “repayment of monies”. Both VB and AM accept that €300,000 was paid to IS/LS from Black Tidings in Singapore at the end of March 2014 and accept that they knew about the transfer. They dispute, however, that it was in repayment of the money which LS/IS allege was paid to AM in three tranches in 2012 before London 2012.

147. IS describes what he says occurred:<sup>144</sup>

63. The very next day after our return home from Moscow, Liliya and I began to receive daily calls from Melnikov, who wanted Liliya to sign the Acceptance of Sanction Form. Both Liliya and I repeatedly told him that we would only discuss signing the Acceptance of Sanction Form once our €450,000 was fully reimbursed.

64. A couple of days after the meeting in Moscow, Melnikov asked us to open a new bank account, specifically in Euros rather than USD, in order to receive the reimbursed monies. I did as instructed and opened a separate account with Sberbank Russia on 15 March 2014 and then emailed the information to Melnikov.<sup>145</sup>

65. On or around 27 March, Melnikov called me to check whether I had received ARAF’s payment. I enquired with the bank but the monies had not arrived. The bank informed me that the transfer would take two to three days to appear in our account. That evening, at around eight or nine o’clock, and repeatedly over the course of the next few days, Melnikov called me to ask whether I had received the monies. Melnikov insisted that the payment had been transmitted, so I requested he email us a confirmation of the transfer. Melnikov agreed and on 31 March 2014, he forwarded Liliya an email from his [amelnikov-at@mail.ru](mailto:amelnikov-at@mail.ru) address. The email was sent to Melnikov by President Balakhnichev through his [valentin1949@gmail.com](mailto:valentin1949@gmail.com) address on 28 March 2014.

148. The following are the documents produced by IS/LS, the accuracy of which are not disputed by VB or AM:

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<sup>142</sup> [Witness statements\A Melnikov\6. AM Request for written submissions.pdf](#)

<sup>143</sup> [Witness statements\A Melnikov\7. AM response to request for written submissions.pdf](#)

<sup>144</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#)

<sup>145</sup> The email was sent to me on 15 June 2015 in response to a query from me: [Witness statements\Lilya and Igor Shob>Email from Shobukhova to Melnikov - 15.03.14.pdf](#)

----- Пересланное сообщение -----  
От кого: Алексей Мельников ([amelnikov-at@mail.ru](mailto:amelnikov-at@mail.ru))  
Дата: 31 марта 2014 г. 12:23:31  
Тема: Fwd[2]: Bank confirmation  
Кому: Ibshobukhova ([Ibshobukhova@rambler.ru](mailto:Ibshobukhova@rambler.ru))  
**Fwd[2]: Bank confirmation**

----- Пересылаемое сообщение -----  
От кого: Valentin <[valentin1949@gmail.com](mailto:valentin1949@gmail.com)>  
Кому: Мельников Алексей <[amelnikov-at@mail.ru](mailto:amelnikov-at@mail.ru)>  
Дата: Пятница, 28 марта 2014, 16:34 +04:00  
Тема: Fwd: Bank confirmation

V.Balakhnichев

Начало переадресованного сообщения:

От: Jean Pierre Bonnot <[bonnot1963@gmail.com](mailto:bonnot1963@gmail.com)>  
Дата: 28 марта 2014 г., 13:24:42 GMT+4  
Кому: [valentin1949@gmail.com](mailto:valentin1949@gmail.com)  
Тема: Перенапр.: Bank confirmation

Confirmation

149. The words in Russian below the name V. Balakhnichev are, in English: “Beginning of forwarded message”.
150. Attached to the email and sent to LS by VB via AM is the confirmation of transfer generated on 28 March 2014 from the Standard Chartered Bank in Singapore:

{1:F01SCBLSG22AXXX0000000000}{2:I103SCBLDEFXXXXN}{3:(108:ST10301403280580)}{4:  
:20:ST10501403280580  
:23B:CRED  
:32A:140328EUR300000,00  
:33B:EUR300000,00  
:50K:/0102387222  
BLACK TIDINGS  
BLK 28 DAKOTA CRESCENT 04-74 SINGAP  
ORE 390028  
:57A:SABRRUMMEA1  
:59:/4081797840600016622  
SHOBUKHOV IGOR  
BASHKORTOSTAN, BELORETSK, RUSSIA  
EKATERINBURG OFFICE BASHKIRSKOE  
OSB 8598 BELORETSKOE OSB 4582  
:71A:OUR  
:72:ACC/SWIFT CODE: SADRRMMEA1 BANK No  
//: +73479250024 Payee ADDRESS: STA  
//HANOV STR. 34, BELORETSK, 453500,  
// BASHKORTOSTAN, RUSSIA, TEL. +790  
//53568734  
-}

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\*\*\*\*End of Report\*\*\*\*

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Generated on 28-Mar-2014 12:49

151. I have not written to the Standard Chartered Bank because the Bank would no doubt say that the obligations of confidentiality prevented any response and I have no power to require a response.

152. I asked Quintel International Intelligence (a security and business intelligence company) to do a Report about the transfer. They produced what is described as an Initial Report but following discussions they were unable to do more. The Report is exhibited to this Report.<sup>146</sup>

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<sup>146</sup> [Exhibits](#)[Ex 3. Quintel Intelligence - Project Nightshade Initial Report.pdf](#). Quintel did not charge for their professional services and I am grateful for the help they gave.

153. Neither Quintel nor I were able to find out any more about Jean Pierre Bonnot ([bonnot1963@gmail.com](mailto:bonnot1963@gmail.com)) who emailed the bank confirmation to VB. I emailed the Bonnot address a number of times with no reply. I do not have the necessary powers to interrogate Google about the email address. Like Quintel I have done standard open internet searches on the name, but with no success.

154. The bank transfer confirmation was generated on 28 March 2014 at 12:49, presumably Singapore time. Bonnot sends the email attaching the bank confirmation to VB on 28 March. On the Bonnot to VB email is the time: “13:24:42 GMT+4”. VB forwards the email and attachment which he has received from Bonnot to AM also on 28 March. The time on the VB to AM email is “16.34 +4.00”. The email which AM sends to LS is dated 31 March.

155. As I understand the way that Gmail operates, the times on the email reflects the time of receipt. Thus the reference to GMT+4 and +4.00 will normally show that the emails were received in the GMT+4 time zone. Thus, on the face of it, both VB and AM were in the GMT+4 time zone on 28 March when they received the emails (Bonnot to VB, VB to AM). Samara and the surrounding area in Russia are in that time zone. According to my internet searches, the following countries are on GMT + 4: Azerbaijan, Georgia, Mauritius, Oman, Seychelles, United Arab Emirates (UAE). I asked VB where he was on 28 March and he replied:<sup>147</sup> “As you remember I inform you that I deleted this message as not important for me that time and cannot answer your question.” It is very unlikely that VB does not have access to a diary to find out where he was on that date and his response is unhelpful. On 2 July 2015 I asked AM a similar question<sup>148</sup> about 28 March 2014 and another date and he replied:<sup>149</sup>

I do not remember exactly where I was on 28 March 2014 .... I assume that on 28 March 2014 I was in Moscow .... For more detailed information and documentary evidence I need more time.

156. The time on the email does not, as I now understand it, help with the location of Bonnot when he sent the email.

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<sup>147</sup> [Witness statements\V Balakhnichev\35. Question and Reply on 22 06 2015 re whereabouts of VB on 28 03 2014.pdf](#)

<sup>148</sup> [Witness statements\A Melnikov>Email to AM 02 07 2015 requesting further information.pdf](#)

<sup>149</sup> [Witness statements\A Melnikov>Email from AM 28 07 2015.pdf](#)

157. The date of 28 March (the date of the bank confirmation and the Bonnot to VB and VB to AM emails) is important for reasons which I shall explain later [218] and following.

158. My enquiries showed that a “Ianton Tan” was connected to Black Tidings and to a company connected to PMD. Hajo Seppelt in the ARD documentary<sup>150</sup> went to the address 28 Dakota Crescent and spoke to a man who turned out to be Ianton Tan. I tried several times to contact Ianton Tan at the address [iantontan@gmail.com](mailto:iantontan@gmail.com) which was an email address which he had used when registering the PMD company pmdconsulting.com (see below). I received no reply. PMD then gave me the address [iantontan@outlook.com](mailto:iantontan@outlook.com). That address contained a small and understandable error and I was finally able to contact him on 3 June 2015 on [ianton.tan@outlook.com](mailto:ianton.tan@outlook.com). My email read:<sup>151</sup>

I would be grateful if you would keep this matter confidential and not discuss it with anyone, including Papa Massata Diack.

There is clear evidence that Igor Shobukhov, the husband of Lilya Shobukhova, received 300,000 euro from BLACK TIDINGS of 28 DAKOTA CRESCENT #04-74 Singapore 390028 in March 2014. I attach the bank confirmation and the email confirmation from Jean Pierre Bonnot which was forwarded by Valentin Balakhnichev to A Melnikov who forwarded it to Lilya Shobukhova. There is also strong evidence that the money was a repayment of a bribe paid by Lilya Shobukhova.

Please could you tell me all that you know about this transfer. Please tell me all that you can about Black Tidings, particularly at the time the transfer was made. Please may I have a copy of Black Tidings bank statements relating particularly to the account from which the transfer was made and covering the period 2011-2014. Who authorised the transfer, who is Jean Pierre Bonnot, why was the transfer made? Please explain how Black Tidings was able to pay out this sum of money and on whose instructions. Was there an earlier payment of this sum or later repayment of this sum into the account and, if so, from whom. If there are other emails in your possession about the transfer please may I have copies.

Would you please confirm that you opened the door when Hajo Seppelt came to 28 Dakota Crescent when making the documentary about corruption in athletics.

I understand that you are not a consultant to the IAAF but to PMD Consulting. Is this right? Please could you explain your relationship to and dealings with Papa Massata Diack.

Not being a member of the IAAF family you are not subject to the obligations to co-operate with my investigation. On the other hand I understand that you do important work to further the aims of the IAAF and I hope, therefore, that you will be able to

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<sup>150</sup> Exhibits\Ex\_6.ARD Full Transcript.docx

<sup>151</sup> Witness statements\Ianton Tan\1. Email to Ianton Taan for assistance 03 06 2015.pdf

give me a comprehensive account of what happened. I am anxious to conclude my investigation and I would be grateful for an early response.

159. I received a holding email from Ianton Tan on 13 June 2015 (in which he referred to “pending review of my official response by my legal in Singapore”). On 17 June he replied:<sup>152</sup>

First, I would like to confirm receipt of your email and my willingness to respect the strict confidentiality of your investigation.

Next, I would like to clarify the transfer mentioned in your email from the now defunct company Black Tidings. There was indeed this transfer made on the end of March 2014. This transfer has been made at the request of Mr. Jean Pierre Bonnot, who claimed to be managing trust funds (tax optimization) for top track & field athletes in their country and he is acquainted with All-Russia Athletic Federation President, Mr. Valentin Balakhnichev and Mr. Papa Massata Diack, IAAF Marketing Consultant whom he clearly mentioned; works actively in Russia and China. I subsequently received an anonymous phone call whom I thought was Mr. Diack in person, verifying that Mr. Bonnot was indeed his friend.

On that basis, he offered an opportunity to facilitate a transfer to a Russian bank account by the name of Mr. Igor Shobukhov and the promise of further opportunities to work together in the investment of trust funds in the sports marketing industry in Asia Pacific region. I proceed with that transfer request and [it was not] until April 2014 that I realized something was wrong when I confirmed with Mr. Diack that he did not know any Mr. Bonnot nor [had] he made a phone call to me confirming the existence of such a person.

Black Tidings is officially closed and due to privacy concerns for other stakeholders involved, I am unable to provide any statements as per your request. However, I can reaffirm the fact that this transfer was the only time I had made to the beneficiary in question.

In reference to your inquiry about a Hajo Seppelt, I do not recall meeting this person before. However, I do recall multiple harassment issues that my family in Singapore has encountered last year, whereby a young lady proclaimed to be a friend of mine behaving suspiciously outside my apartment in Singapore. In addition, I did run into her once when I was back in Singapore and subsequently made an official police report when I realized that I do not know her and she was using her mobile phone at me (presumably taking pictures or videos) as we speak and proclaiming to be a friend of Mr. Igor Shobukhov.

As for Mr. Diack, I am his personal friend since 2008 where we worked together for the Beijing Olympics 2008 and since then we have worked together on ad hoc projects like the sponsorship servicing of Official IAAF Partner, SINOPEC which is based in Beijing. The only time that I can recall helping PMD Consulting, was to help register a website domain for the company as a personal favor since I was more IT savvy.

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<sup>152</sup> [Witness statements\Ianton Tan\2. Ianton Tan's response dated 17 06 2015.pdf](#)

Lastly, I am more than happy to assist as I have understood there have been some strong allegations against Mr Diack which I feel is unjust and I do hope to be able to assist you within my capacity to help conclude your investigations.

160. In 18 June 2015 I asked Ianton Tan further questions (and sent him a reminder on 29 June):<sup>153</sup>

As I understand it, Bonnot contacted you. Was this by phone or email? If by email, please may I have a copy of the email. How did he know how to contact you? Have you contact details for him? Where did you understand he was based?

He said he knew VB and PMD. Is this right?

Following his request for help in transferring funds to IS, what did you do? How were you able to transfer 300 000 euro into the account of IS from Black Tidings. When and how did the 300 000 get into the Black Tidings Account?

You mention privacy concerns in relation to my request to see the bank statements. Given that it is likely that criminal offences have been committed by someone in relation to this transfer, I do not think that privacy can be an issue. I would like to see the statements which show the 300 000 coming in and going out and the names of the relevant stakeholders.

161. He replied on July 2 2015,<sup>154</sup> mentioning for the first time that Black Tidings had been the victim of a fraud. He had transferred the €300,000 to IS but, so he says, was never reimbursed. His email reads:

I do recognize your anxiousness in concluding investigations from your last email, however, I must highlight the key issue here that Black Tidings is also a victim of what I believe to be a fraud scheme.

The known Mr. Bonnot, had contact details provided for me (believed to be based in the UK) but these turned out to be non-existent, which I believe to be temporary diverted VOIP numbers provided. Needless to say, all my emails to him went unanswered after.

In relation to bank statements, the only transfer made to Mr. Igor was made through Black Tidings bank account. That fund was made on Mr. Bonnot's behalf and belongs to Black Tidings. Since he went missing, I was unable to get the reimbursement for the funds made, as well as other businesses he has proposed.

Having suspect that this might be a fraud case, I also had Black Tidings closed to avoid further complications. As for the transfer made to Mr. Igor, I believe you have already obtained a copy in your previous email attachments.

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<sup>153</sup> [Witness statements\Ianton Tan\3. Email request to Ianton Tan for further information 18 06 2015.pdf](#)

<sup>154</sup> [Witness statements\Ianton Tan\4. Ianton Tan's response 02 07 2015.pdf](#)

I have also mentioned my last email, in my initial communications with Mr. Bonnot, he did mention that he is acquainted with Mr. Valentin Balakhnichev and Mr. Papa Massata Diack.

Lastly, I do want to make it clear that, I am too a victim and do not appreciate the fact that you are making inferences that I have committed a criminal offence. As you have rightfully mentioned in your earlier emails that I am actually not obliged to assist in your investigations as part of the code of ethics with the IAAF Family, perhaps this will be as much as I can help. (Underlining added)

162. I have asked VB a number of questions about his knowledge of the transfer. On 27 November 2014 I wrote to him:<sup>155</sup>

I attach a two page document<sup>156</sup> which shows a transfer of 300,000 euros from Black Tidings in Singapore via Standard Chartered Bank in Singapore to Ivor Shobukhova, the husband of Lilya Shobukhova. I know that the 300,000 arrived in the Shobukhova account. The document also shows that you received notification of the bank transfer from a Jean Pierre Bonnot and forwarded that by email to A Melnikov. A Melnikov then forwarded the confirmation to Lilya Shobukhova. I have made enquiries about the transfer but wish to hear your full explanation....

163. On 19 December 2014 VB replied:<sup>157</sup>

With regard to the bank transfer of 300,000 Euros, the facts known to me are as follows.

1. Mr Bonnot, whom I do not know personally, approached the ARAF (All-Russian Athletics Federation) with a request to provide him with bank details of Mrs Shobukhova. It should be noted that ARAF frequently receives such requests from third parties concerning information about athletes of the national team. The ARAF acts as a liaison between athletes and third parties and therefore I was not surprised to receiving such a request.

2. I asked Mr Melnikov to contact Mrs Shobukhova in order to obtain her permission to provide Mr Bonnot with her bank details. Mr Melnikov contacted Mrs Shobukhova and she gave her consent and sent him bank details for Mr Bonnot.<sup>158</sup> Mr Melnikov sent these bank details to me and I then forwarded them to Mr Bonnot. The same e-mail chain took place (in reverse) with the payment confirmation from Mr Bonnot.

3. Apart from the facts set out above, I have no knowledge of the transfer of 300,000 Euros. I do not know who paid this sum or what the payment related to. I have never heard of Black Tidings or Ianton Tan. I would add that I did not consider that I was under any obligation to make enquiries about the transfer. The transfer did not

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<sup>155</sup> [Witness statements\VBalakhnichev\18. Letter to VB 27 11 2014.pdf](#)

<sup>156</sup> Set out above [148] and following.

<sup>157</sup> [Witness statements\VBalakhnichev\22. Email response 19 12 2014 to letters of 27 11 2014 and 05 12 2014.pdf](#)

<sup>158</sup> See [Witness statements\Lilya and Igor Shob\Email from Shobukhova to Melnikov - 15.03.14.pdf](#)

concern the ARAF and had nothing to do with ARAF's other dealings with Mrs Shobukhova.

164. I replied on 20 December 2014:<sup>159</sup>

I shall reply in more detail shortly but in the meantime please send me or obtain for me from Mr Melnikov/ARAF copies of all documentary evidence concerning this transaction. In particular I need to see all emails or other documents which confirm your account of the 300,000 euro transaction. You write:

"I asked Mr Melnikov to contact Mrs Shobukhova in order to obtain her permission to provide Mr Bonnot with her bank details. Mr Melnikov contacted Mrs Shobukhova and she gave her consent and sent him bank details for Mr Bonnot. Mr Melnikov sent these bank details to me and I then forwarded them to Mr Bonnot. The same e-mail chain took place (in reverse) with the payment confirmation from Mr Bonnot."

Please send me copies of the email chain from you to Melnikov, Melnikov to Shobukhova, Shobukhova to Melnikov, Melnikov to you and you to Bonnot.

165. VB replied on 26 January 2015:<sup>160</sup>

In answer to your request, I have not been able to obtain copies of the email chain referred to in my email to you of 19 December 2014. Please note that I routinely delete incoming emails shortly after receipt in order to free up space in my email inbox. I receive huge numbers of emails every day and most of them are immediately deleted. That is what happened with the emails in question. It is my usual practice to keep only important correspondence in my email inbox. I did not at the time consider that the emails in question were significant as I had no knowledge of or involvement in the payments mentioned in them.

I have asked Mr Melnikov for copies of the emails in question but he has not responded to this request. Mr Melnikov is not and was not at the time working for All Russia Athletics Federation.

166. I replied on 28 January 2015:<sup>161</sup>

In your email of 19 December you wrote that Mr Bonnot approached the ARAF with a request to provide him with the bank details of Mrs Shobukhova. How did Mr Bonnot communicate with ARAF and how and why was that communication sent to you? I note that your ARAF email address is [valentin@iaaf.ru](mailto:valentin@iaaf.ru) and that the email address on the ARAF website is [info@rusathletics.com](mailto:info@rusathletics.com). I note that you are the President of ARAF. Why did you not delegate this matter to a member of your staff? I do not understand why, on your account, you did not simply forward Mr Bonnot's email address directly or indirectly to Mrs Shobukhova given how busy you are. Please could you explain why you dealt with the matter in the way that you did.

<sup>159</sup> [Witness statements\VB\Balakhnichev\23. Email to VB 20 12 2014 seeking further details.pdf](#)

<sup>160</sup> [Witness statements\VB\Balakhnichev\24. VB response 26 01 2015 to email of 20 12 2014.pdf](#)

<sup>161</sup> [Witness statements\VB\Balakhnichev\25. Email to VB 28 01 2015 requesting further details.pdf](#)

When Mr Bonnot emailed you on 28 March 2014 he used the email address [valentin1949@gmail.com](mailto:valentin1949@gmail.com). That is not the email address which you use when communicating with me and is not the official ARAF address which Mr Bonnot would presumably have used. What is the email address [valentin1949@gmail.com](mailto:valentin1949@gmail.com)? How did Mr Bonnot know that he should use that email address and not your official address at ARAF given that Mr Bonnot had approached ARAF and not you. If this was official business of ARAF why did you use what appears to be a personal email address?

You write on 26 January 2015 that you receive huge numbers of emails every day and most of them are immediately deleted and that is what happened to the emails in question. But to which email address are you referring when you say this?

If Mr Bonnot communicated with you or ARAF by email then I assume that ARAF preserves its emails on a server. Please make the necessary enquiries to trace any such email. The email which you say you sent to Mr Melnikov and the email which you say you sent to Mr Bonnot with the bank details for Mrs Shobukhova would be in your sent emails. Have you deleted those emails and why would you delete sent emails? Have you checked the Gmail server to see that the emails have been deleted? Given the importance of this matter, please explain what steps you have taken to contact Mr Melnikov. He will, on your account, have an email in his inbox from you asking whether Mrs Shobukhova would give her permission to Mr Bonnot being provided with her bank details and an email in his sent box giving you the details. If your account is right then Mr Melnikov should be able to give you the evidence which supports your account.

167. VB replied on 16 February 2015:<sup>162</sup>

I do not know why Mr Bonnot approached me in this way. I respectfully suggest that you direct that question to Mr Bonnot.

My two email addresses: [valentin1949@gmail.com](mailto:valentin1949@gmail.com) and [valentin@iaaf.ru](mailto:valentin@iaaf.ru) are both well known to people active in the athletics world. I use both addresses for private and official IAAF business. There is therefore nothing significant about the fact that Mr Bonnot used my gmail address. When I said that I regularly delete emails, I was referring to both email addresses.

I forwarded the request to Mr Melnikov rather than to Mrs Shobukhova directly because Mr Melnikov was my usual point of liaison with Mrs Shobukhova. There was no particular need for me to delegate this matter to my staff. I considered that it was a straightforward administrative matter which would not take much time for me to deal with.

I am afraid that I not have the technical ability to trace emails from the ARAF server.

I have spoken to Mr Melnikov on the telephone about the emails. I respectfully suggest that you address any questions you may have about Mr Melnikov's emails directly to Mr Melnikov.

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<sup>162</sup> [Witness statements\Balakhnichev\26. Email response 16 02 2015 to email of 28 01 2015.pdf](#)

168. I wrote back on 20 February 2015:<sup>163</sup>

Please would you confirm that Mr Bonnot's original request for the details of the bank account was made to your [valentin1949@gmail.com](mailto:valentin1949@gmail.com) address and that the first you knew about the request was when you received the email. I understand you to be saying that all emails to and from Mr Bonnot and to and from Mr Melnikov have been deleted by you and that you cannot now access them on the gmail server. Is this right?

On how many occasions approximately have persons who you do not know used the [valentin1949@gmail.com](mailto:valentin1949@gmail.com) address to find out details of an athlete's bank account to make a transfer of money? If you can give me some anonymised copies of such emails please do so.

169. VB replied on 4 March 2015:<sup>164</sup>

1) I do not remember to which e-mail address Mr Bonnot made his original request. It is possible that the request was made to valentin1949@gmail.com. I confirm that the first I knew about the request was when I received the email. I also confirm that all emails to and from Mr Bonnot and to and from Mr Melnikov have been deleted and cannot now be accessed.

2) I do not remember whether any requests were made from persons whom I do not know to valentin1949@gmail.com concerning athletes' bank account details or to make a bank transfer. However, as I have previously indicated, I frequently receive requests concerning athletes' personal information and their activities and such requests may well be made to that email address.

170. In my letter dated 29 April 2015 requesting VB's final submissions I wrote:<sup>165</sup>

17. I have asked you many questions about this transfer and you have given a number of answers. The correspondence between us will be given to the Ethics Commission in my report.

18. The thrust of your answers is to the effect that the transfer was an everyday transfer of money to an athlete and that the transfer did not, to your knowledge, constitute a repayment to LS of monies corruptly paid by her earlier.

19. In my report I shall evaluate the truth or falsity of the explanations you have given to me.

171. VB replied on 1 June 2015 to this part of my letter:

Turning to Part 2 of the letter concerning the transfer of money in March 2014, I stand by my previous answers. I would not go so far as to describe the payment of US\$300,000 as an everyday matter (given the amount of money involved) but

<sup>163</sup> [Witness statements\VBalakhnichiev\27. Email to VB 20 02 2015 requesting further details.pdf](#)

<sup>164</sup> [Witness statements\VBalakhnichiev\30. Email response 04 03 2015 to email of 20 02 2015.pdf](#)

<sup>165</sup> [Witness statements\VBalakhnichiev\31. Revised final letter 29 04 2015.pdf](#)

payments to athletes were made on a regular basis and I did not consider myself under any obligation to make enquiries about the transfer. The transfer did not concern the ARAF and had nothing to do with ARAF's other dealings with LS. I certainly had no knowledge that the money constituted repayment of monies previously paid by her.

172. I turn to AM's account. I wrote the following to him on 10 February 2015:<sup>166</sup>

As you are aware it has been alleged that 450,000 euro was paid by the athlete Lilya Shobukhova to you in order for her to be able to compete at a time when the IAF had evidence of an abnormal blood profile for her.

I attach a bank confirmation and emails which show the movement in March 2014 of 300,000 euro from a company called Black Tidings to an account in Russia in the name of the husband of the athlete. It is alleged that this represented a repayment of all but 150,000 euro of the money paid to you.

Please would you explain your involvement in this transaction. Why did you receive the bank confirmation from Mr Balakhnichev and why did you forward it to the athlete? Please send me a copy of all the emails you have concerning this transaction.

I would be grateful if you would not discuss this matter with Mr Balakhnichev or any other person connected to the IAAF.

173. AM replied on 20 February 2015:<sup>167</sup>

Regarding your questions I respectfully inform you that:

- a) I strongly deny all allegations concerning my participation in receiving 450 000 Euro or any other amount allegedly paid by Mrs Shobukhova for her participation in Olympic Games 2012 and/or covering her anti-doping rule violation. I have strong evidence that all accusations made by Ms Shobukhova and her husband against me are false.
- b) I do not have any knowledge about 300 000 Euro payment from company Black Tidings to an account in Russia in the name of the husband of Mrs Shobukhova.
- c) Mr Balakhnichev requested me to contact Mrs Shobukhova and to ask her whether she would agree to provide her bank account details to the foreign company whose representative had requested this information. I contacted Mrs Shobukhova and she agreed to provide her bank account details. Then, I forwarded the bank information received from her to Mr Balakhnichev.

174. I replied on 20 February 2015:<sup>168</sup>

Please provide me with the details of what you describe as the "strong evidence that the accusations made by LS and her husband are false".

<sup>166</sup> [Witness statements\A Melnikov\1. Email 10 2 2015 to A Melnikov.pdf](#)

<sup>167</sup> [Witness statements\A Melnikov\2. AM response 20 02 2015 to email of 10 02 2014.pdf](#)

<sup>168</sup> [Witness statements\A Melnikov\3. Email 20 02 2015 to AM.pdf](#)

You write:

“Mr Balakhnichev requested me to contact Mrs Shobukhova and to ask her whether she would agree to provide her bank account details to the foreign company whose representative had requested this information. I contacted Mrs Shobukhova and she agreed to provide her bank account details. Then, I forwarded the bank information received from her to Mr Balakhnichev.”

Please provide me with copies of all the communications between you and Mr Balakhnichev and between you and LS regarding the payment of money into her husband’s account. In the case of emails please provide copies from both your inbox and sent emails.

175. AM replied on 4 March 2015:<sup>169</sup>

2) Correspondence that you mentioned was not kept. All outgoing e-mails were automatically deleted due to respective settings in my e-mail box. Regarding incoming e-mail letters I cannot find them and I suggest that they were also deleted after some time since they were not important for me and I did not see any reason to keep them.

176. In my letter dated 3 June 2015 requesting final submissions from AM, I wrote:<sup>170</sup>

24. I have asked you questions about this transfer and you have given answers. The correspondence between us will be given to the Ethics Commission in my report. Do you wish to add anything to what you wrote in your emails of 20 February 2015 and 4 March 2015?

25. In my report I shall evaluate the credibility of the explanations you have given to me about the transfer.

177. AM replied that he had nothing to add.<sup>171</sup>

178. I shall assess the truth or falsity of VB’s and AM’s account of the bank transfer in my individual report on him. It should, however, be borne in mind that LS had not competed since October 2013 and it is thus not easy to see why a transfer of such a large sum should be made to her in March 2014 in the way that it was made, except in the circumstances described by LS and IS.

179. I turn now to the account of the transfer given by PMD. On 17 December 2014, I wrote to PMD a letter which included the following:

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<sup>169</sup> [Witness statements\A Melnikov\5. AM response 04 03 2015 to email of 20 02 2015.pdf](#)

<sup>170</sup> [Witness statements\A Melnikov\6. AM Request for written submissions.pdf](#)

<sup>171</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

There is clear evidence that the athlete or her husband received back 300,000 euro from BLACK TIDINGS of 28 DAKOTA CRESCENT #04-74 Singapore 390028 in March 2014. I attach the bank confirmation and the email confirmation from Jean Pierre Bonnot which was forwarded by Valentin Balakhnichev to A Melnikov who forwarded it to the athlete. I am aware that your company PMD Consulting also uses the same address.

I understand that Black Tidings is a sole proprietorship. It started off as a partnership with 2 partners, Tan (or Iantan or Chen) Tong Han of 28 Dakota Crescent Singapore and Fong Mok Seong of 107, Jalan Tembusu, 818000 Ulu Tiram, Johore, Malaysia. However, Fong Mok Seong left the firm in 2011, while Tan stayed on. I believe that Tan opened the door to Hajo Seppelt when he went to the address.

There is evidence that the other 150,000 euro was paid to a lawyer, can you help about that?

I would be grateful for all the help you could give me about this transaction. You will, I hope, agree that the payment of money in these circumstances raises very serious ethical issues and, as a member of the IAAF family, I hope you will be able to assist me in shedding light on what happened and why.

180. PMD replied on January 20 2015:<sup>172</sup>

1. I had no knowledge of or involvement in the circumstances of Ms Shobukhova's participation to the 2012 London Olympic Marathon and the 2012 Chicago Marathon. I was not aware that both ARAF and IAAF were investigating the abnormal blood profile of Ms Liliya Shobukhova in 2012, as it is not in my prerogatives to deal with Medical & Anti-Doping issues within the IAAF.
2. I have never been aware of a payment of 450.000 euros paid by Liliya Shobukhova to have her abnormal blood profile suppressed.
3. I totally reject your allegation of linking my company PMD Consulting to Black Tidings.
4. PMD Consulting does not use the same address as Black Tidings. PMD Consulting is only registered in Senegal since 2004 (see registration attached) and is not registered in Singapore, as can be checked from the Singapore Companies Registry. However, I sought the computer engineering expertise of Mr Tong Han Tan for the registration of a pmdconsulting.org domain name and dedicated email address. Mr Tan, as the main contact person, registered the domain name under his own address at 28, Dakota Crescent in Singapore for convenience of renewal and maintenance (see document attached). As I have told to ARD Jochen Luefgens on December 5th, 2014, I confirm knowing Mr Tong Han Tan as marketing consultant who is advising us in our sales and sponsor servicing in the People's Republic of China. We are using his services as consultant to service our marketing relationship with Chinese sponsors, broadcasters and the Local Organizing Committee of the Beijing 2015 World Championships.

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<sup>172</sup> [Witness statements\PMD\10. PMD response 11 05 2015 to letter of 01 05 2015 .pdf](#)

5. I have no knowledge of the payment of \$150,000, which was allegedly made to a lawyer. Therefore, I will not be in a position to help you about this transaction.

181. With the letter, PMD sent the pmdconsulting.org domain name registration<sup>173</sup> and a Senegalese “avis d’immatriculation” showing the registration of PMD consulting in Senegal.<sup>174</sup>

182. On 20 February 2015 I wrote to PMD:<sup>175</sup>

I have emailed Ianton twice and not had a reply. Given the role that he plays with your organisation as outlined in paragraph 4 of your letter of January 20th 2015 and given that both you and I are anxious to bring this enquiry to an end, please would you telephone Ianton to make sure that he received my email or, if not, to obtain another email address which I can use. Please also ask him to cooperate with me.

183. PMD had responded on 17 February 2015 with a new email address for Ianton Tan (which unfortunately had an error within it) and added on: “please write to him directly as I have not been in contact with him since this matter came out.”<sup>176</sup>

184. In my letter on 1 May 2015 to PMD requesting final submissions, I wrote on this topic:<sup>177</sup>

15. At the end of March 2014 €300,000 was transferred from Singapore for the benefit of LS. There is evidence that this was a repayment of part of the monies which had earlier been paid to AM by LS and that the repayment was made so that LS and IS would remain silent about what had happened and that LS would accept the sanction of two years’ ineligibility and disqualification.

16. I have asked you a number of questions about the bank transfer and you have given a number of answers. The correspondence between us will be given to the Ethics Commission in my report.

17. The thrust of your answers is that the transfer had nothing to do with you and that you knew nothing about it.

18. In my report I shall evaluate the truth or falsity of your answers.

185. PMD replied on 11 May 2015:

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<sup>173</sup> [Witness statements\PMD\6. PMD Domain Name.docx](#) .

<sup>174</sup> [Witness statements\PMD\7. Immatriculation PMD.pdf](#)

<sup>175</sup> [Witness statements\PMD\8. Emails re Ianton Tan.pdf](#)

<sup>176</sup> [Witness statements\PMD\8. Emails re Ianton Tan.pdf](#)

<sup>177</sup> [Witness statements\PMD\9. Letter to PMD 1 May 2015 .pdf](#)

Regarding the bank transfer from Singapore, I confirm my previous statement from my letter of 20 January 2015. I reiterate: there is no reason for the IAAF Ethics Commission to link me to the transfer made by Mr. Ianton Tan based on media reports from ARD TV and newspaper l'Equipe.<sup>178</sup>

On linking you to Mr. Ianton Tan, I did confirm you his email address and I did forward your email to me from 20 February 2015. If he did not answer to your request, I have no responsibility for that as I do not have any authority over Mr. Ianton Tan to impose him a full cooperation to the IAAF Ethics Commission investigation. Mr. Ianton Tan is neither my employee nor my business partner, but a consultant for the servicing of our contract with our Official IAAF Partner, SINOPEC for the IAAF World Championships Beijing 2015 which I have a professional obligation to deliver for the next 4 months. I met him for the first time since this "scandal" came out in Beijing in April 2015 and he stated clearly to me that he did not appreciate his name or company being mentioned in media allegations concerning the IAAF. This has caused a lot of damage to his business dealings in China and Singapore. For that reason, he has changed his email address to iantontan@outlook.com and his contact phone number to +8613701067396. Please feel free to contact him and ask him his side of the story.

186. IS continues his account of what happened after the arrival of the email on 30 March 2014 confirming the bank transfer:<sup>179</sup>

66. After I received this email, Mr Melnikov continued to call me several times a day until I finally confirmed on or around 1 April that the €300,000 transfer had been successfully received in our account. I withdrew the money from the account on 3 April.

67. Melnikov then renewed ARAF's requests for Liliya to sign the Sanction document. However, I reminded him that we still were waiting for the remaining €150,000 to be reimbursed, and that we were yet to receive any paperwork or evidence of Liliya's alleged violation.

68. In response, Melnikov emailed Liliya just the Acceptance of Sanction Form. Melnikov called us again in a final attempt to convince Liliya to sign the document. We found his desperation particularly suspicious. We felt that ARAF were trying to hide something from us. I repeated what I had told him many times before; that we would need to first be refunded the €150,000 that ARAF had gifted to the Lawyer before we would consider discussing Liliya's signature. This was the last time Liliya and I ever spoke to Melnikov. After this point Melnikov used his secretary, Natalie (I do not know her full name), to put pressure on Liliya to sign the Acceptance of Sanction Form – she was frequently emailing and texting Liliya. Liliya did not pick up her phone during this time because of the immense pressure ARAF was putting her under, and so I answered these calls for her.

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<sup>178</sup> If I were to link PMD to the transfer, it would not be for the reason he here gives.

<sup>179</sup> [Witness statements\Lilya and Igor Shob\Amended witness statement 16 07 16.pdf](#)

69. The final communication we received from either Natalie or anyone else texting on behalf of Melnikov was a text to Liliya's phone which simply stated "you do not respond; we are going to fire you anyway without your signature".

*Receipt by IAAF from ARAF of acceptance of sanction form*

187. On 8 April 2014, Thomas Capdevielle sent the following email:

**Thomas Capdevielle**

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**From:** Thomas Capdevielle  
**Sent:** mardi 8 avril 2014 16:48  
**To:** ser-sinelobov@yandex.ru; V.Balakhnichev (valentin@iaaf.ru)  
**Cc:** Gabriel Dolle  
**Subject:** Ratification acceptance of sanction Shobukhova.docx  
**Attachments:** Ratification acceptance of sanction Shobukhova.docx

Dear Sergey,

We are in receipt of the IAAF acceptance of sanction form signed by Ms Shobukhova.  
We would now kindly ask you to ratify this acceptance of sanction through an ARAF decision.  
I have attached a template for your ease of reference.

We are looking forward to receiving the ARAF decision accordingly.

Best Regards

Thomas

188. There is evidence ([202] and following) that the acceptance of sanction form, the receipt of which is being acknowledged, bears the forged signature of LS dated 28 March 2014. This email of 8 April acknowledges receipt of that form and goes on to ask for ratification of this acceptance of sanction through an ARAF decision.

*Decision of ARAF Anti-Doping Commission*

189. The IAAF was informed of the ARAF Anti-Doping Commission decision in a letter from Sergey Sinelobov (administrative assistant to VB and Secretary of the ARAF Anti-Doping Commission) dated 10 April 2014:<sup>180</sup>

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<sup>180</sup> [Witness statements\VBalakhnichev\4. Attachment to response 17 07 2014 - letter 10 04 2014 ARAF to Dolle re decision of ARAF April 9 2014.pdf](#)

Dr. Gabriel Dollé  
Director  
IAAF Medical & Anti-Doping Department

By confidential @-mail

10 April 2014

**Ref: Liliya Shobukhova - RUS**

Dear Dr. Dollé,

Please be aware that, the following decision was taken by the ARAF Anti-Doping Commission:

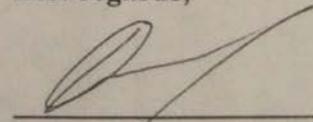
- (i) Ms. Shobukhova is guilty of an anti-doping rule violation under IAAF Rule 32.2 (b) as a result of an abnormal Athlete Biological Passport profile in the period 9 October 2009 to 7 October 2011;
- (ii) Ms. Shobukhova is ineligible to compete for a period of two (2) years commencing on 24 January 2013 when she voluntarily withdrew from competition, in accordance with IAAF Rule 40.2 and 40.10 (c).

In accordance with IAAF Rules 40.1 and 40.8, all individual results achieved by Ms. Shobukhova from 9 October 2009 shall be disqualified with all of the resulting consequences for the athlete including the forfeiture of any titles, awards, medals, points and prize and appearance money.

We understand that Ms. Shobukhova has waived any and all rights to appeal this decision which will be published accordingly.

Yours sincerely,

Best regards,



Sergey SINELOBOV  
Secretary of the ARAF  
Anti-Doping Commission

190. Although this letter is dated 10 April the formal decision, dated 9 April 2014, was not forwarded to the IAAF until 3 June 2014. ARAF made an announcement of the suspension on 29 April 2014.<sup>181</sup>

<sup>181</sup> [https://en.wikipedia.org/wiki/Liliya\\_Shobukhova](https://en.wikipedia.org/wiki/Liliya_Shobukhova).

191. The last paragraph of the letter refers to an understanding that LS had waived all rights of appeal. There is no evidence to support any such waiver and the existence of any such waiver is contradicted by the evidence of LS/IS and a letter from Mr Mike Morgan, counsel to LS, to which I now turn.

192. On 22 May 2014 Mr Mike Morgan of Morgan Sports Law wrote to GD a letter, sent by email, complaining of the lack of information about what had been reported in the media.<sup>182</sup> The latter stated, in part:

**My client has never seen any documents relating to any alleged anti-doping rule violation and has never been invited to a hearing relating to this matter. She was therefore surprised to learn from the media that she has apparently already been banned for over one year. My client's national federation refuses to explain what is going on. Ms Shobukhova therefore respectfully requests the IAAF to explain:**

- (a) whether it considers her to be a "sanctioned athlete"; and
- (b) if so, what anti-doping rule violation she is accused of committing and what evidence those accusations are based on.

193. This letter led to an email dated 26 May 2014 to Viktor Berezov, legal counsel to ARAF, from Thomas Capdevielle attaching the Mike Morgan letter and stating:<sup>183</sup>

Dear Viktor,

Please see attached. There is no point preparing a full reasoned decision if the athlete has not had a hearing or at least was not offered the opportunity to request/attend a hearing.

194. On 2 June 2014, VB sent the following email to GD:<sup>184</sup>

Dear Gabriel,

We have discussed this case with Habib and preliminary agreed not to use Acceptance of Sanction since the Athlete is going to challenge her signature. In this regard we propose to render a decision based only on analytical issues without mentioning her acceptance. Should the Athlete decide to appeal in CAS, the IAAF may also submit an appeal and require 4-year ban. Mentioning the Acceptance of Sanction could cause long proceedings involving some expert issues concerning her signature. Although we are confident that the results of such expertise will be negative for Athlete, it can take a lot of time and publicity around her case. Given that her profile is 100% persuasive, it is more easier to render a decision based only on analytical data.

If you agree, we will make new written notification for the IAAF dated April 2014 without mentioning the Acceptance of Sanction.

<sup>182</sup> [Witness statements\Lilya and Igor Shob\Letter of 22 May 2014 from Mike Morgan to GD.pdf](#)

<sup>183</sup> [Witness statements\T Capdevielle>Email TC to VB\\_26 05 2014.pdf](#)

<sup>184</sup> [Witness statements\V Balakhnichev>Emails 02 06 2014 between VB and GD.pdf](#)

195. There is no evidence that GD did agree to what is stated in the last paragraph. GD replied:<sup>185</sup>

Dear Valentin,

I am in receipt of your e-mail below.

On the basis of your position expressed below, I would kindly ask you to provide us within the next 48h with the full reasoned decision of the ARAF Anti-Doping Commission. I respectfully remind you that Victor had committed to deliver the decision shortly after ARAF's notification of 10 April 2014.

I have to say that we are somewhat disappointed by the latest developments in this case, caused by ARAF, which now force the IAAF to appeal ARAF's decision to CAS.

We are looking forward to hearing from you.

Kind Regards

Gabriel

196. Thomas Capdevielle states:

41. There were many telephone conversations between Gabriel Dollé, Habib Cissé and Valentin Balakhnichev between October 2012 and early 2014, I assume on [the LS] issue.

42. As far as I remember, in early April 2014, Gabriel Dollé told us that we would shortly receive a signed acceptance of sanction from the athlete which would be immediately ratified by ARAF.

43. I remember that, while away in Bulgaria, I was told that we had received the ARAF decision. I asked my assistant to immediately publish the sanction against Ms Shobukhova on the IAAF website.

44. On 3 June 2014, we received the full reasoned decision issued by ARAF dated 9 April 2014.

45. We decided to remove the sanction on the IAAF website after we learnt that she would appeal the ARAF decision.

197. The email of 3 June stated:<sup>186</sup>

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<sup>185</sup> Ibid.

<sup>186</sup> [Witness statements\T Capdevielle>Email from ARAF to GD and TC 03 06 2014.pdf](#)

**Thomas Capdevielle**

**From:** Sinelobov Sergei <ser-sinelobov@yandex.ru>  
**Sent:** mardi 3 juin 2014 13:32  
**To:** Gabriel Dolle; Thomas Capdevielle  
**Subject:** Fwd: ARAF decision on Shobuhova case  
**Attachments:** ENG\_page 1.pdf; ENG\_page 2.pdf; ENG\_page 3.pdf; ENG\_page 4.pdf; ENG\_page 5.pdf; RUS\_page 1.pdf; RUS\_page 2.pdf; RUS\_page 3.pdf; RUS\_page 4.pdf; RUS\_page 5.pdf; RUS\_page 6.pdf

----- Пересылаемое сообщение-----

198. The English translation of the original signed Decision in Russian states:<sup>187</sup>

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<sup>187</sup> [Witness statements\Balakhnichev\15. Attachment to A Lenin email 15 10 2014 - ARAF decision \(English\).pdf](#). For the Russian original see [Witness statements\Balakhnichev\14. Attachment to A Lenin email 15 10 2014 - ARAF decision \(Russian\).pdf](#)

**ANTI-DOPING COMMISSION  
ALL-RUSSIAN ATHLETIC FEDERATION**

Moscow

9 April 2014

**DECISION**

ARAF Anti-Doping Commission (hereinafter referred as Commission) considered the case of alleged anti-doping rule violation committed by Ms SHOBUKHOVA LILIYA and ruled:

- 1) To declare that Ms LILIYA SHOBUKHOVA committed an anti-doping rule violation (art. 32.2.(b) of the IAAF Anti-Doping Rules);
- 2) To determine 2-year period of ineligibility for Ms LILIYA SHOBUKHOVA as applicable sanction in this matter commencing from 24 January 2013;
- 3) To disqualify all results achieved by Ms LILIYA SHOBUKHOVA as from 9 October 2009 – the date of anti-doping rule violation.

**LEGAL GROUNDS**

1. Pursuant to Art. 32. 2 (b) of the IAAF Anti-Doping Rules use of attempted use by an athlete of a prohibited substance or prohibited method constitutes an anti-doping rule violation. It is each Athlete's personal duty to ensure that no Prohibited Substance enters his body.
2. 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 foreseen by the Art. 32.2. (b) of the IAAF Anti-Doping Rules.
3. Under Art. 33.1 IAAF Anti-Doping Rules the IAAF, the Member or other prosecuting authority shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the IAAF, the Member or other prosecuting authority has established an

anti-doping rule violation to the comfortable satisfaction of the relevant hearing panel, bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof *beyond a reasonable doubt*.

4. Given that this case is non-analytical, i.e. does not involve Adverse Analytical Finding, the Commission refers to Art. 33.3 of the IAAF Anti-Doping Rules which states that facts related to anti-doping rule violations may be established by any reliable means, including but not limited to admissions, evidence of third Persons, witness statements, experts reports, documentary evidence, conclusions drawn from longitudinal profiling and other analytical information.
5. Therefore, initially the Commission shall determine whether the IAAF and ARAF could submit reliable and convincing evidence that the Athlete had committed an anti-doping rule violation.
6. After thorough examination of the ABP blood profile of the Athlete (5 blood tests within the period October 2009 – October 2011) and expert opinions of Dr. G. D'Onofrio, Dr. M. Audran and Dr. J. Schumacher, the Commission came to unanimous conclusion that the only possible explanation of the Athlete's abnormal blood profile is blood manipulations, e.g. use of prohibited substance (rhEPO) or prohibited method (blood transfusions).
7. In particular, Dr. G. D'Onofrio indicated in his expert opinion:

*"Although the number of tests is relatively limited, the variation in hemoglobin and the level of the two top values obtained in October 2009 and 2011 in strict correlations with endurance competitions (Chicago marathon) are so extreme that this case should be considered a medical emergency. Hemoglobin above 180 g/l in a woman entails very high blood viscosity and carries a significant risk of thrombosis and ischemia in major organs, such as heart, central nervous system or intestine.*

*The blood doping scenario in a case like this could be based on a massive use of erythropoietin associated to an autologous transfusion strategy. A sequence of*

*repeated blood withdrawals and reinfusions could explain both the episode of low hemoglobin with high reticulocytes (at the time of collection, like in sample 4) and those of high hemoglobin with depressed reticulocytes (at the time of pre-competition reinfusions). Information about urine and blood erythropoietin tests could be helpful. In conclusion, according to paragraph 9.6 of the IAAF Blood Testing Protocol, my opinion for the case S3A9 is that "It is highly likely, absent a satisfactory explanation from the athlete, that the athlete's profile is the result of the use of a prohibited substance or a prohibited method".*

8. The same conclusions have also been made by two other world leading experts in this area – Prof. M. Audran and Prof. J. Schumacher.
9. To the contrary, the Commission does not have any explanations from the Athlete explaining her abnormal blood data and alleged anti-doping rule violation. Neither any request for oral hearing had been made by the Athlete. The Commission has in its disposal the documents confirming that the Athlete has been notified about the alleged anti-doping rule violation and her right to request an oral hearing.
10. Under such circumstances and having overwhelming evidence, the Commission made a conclusion that the Athlete DID commit an anti-doping rule violation described in Art. 32.2. (b) of the IAAF Anti-Doping Rules – "*Use or Attempted Use by an Athlete of a Prohibited Substance or Prohibited Method*".
11. Subsequently, the Commission shall determine a sanction for the Athlete which committed first anti-doping rule violation.
12. According to the Art. 40.2. of the IAAF Anti-Doping Rules the standard sanction for committing the first anti-doping rule violation is 2-year period of ineligibility.
13. However, the Art. 40.6. of the IAAF Anti-Doping Rules stipulates that the standard sanction may be increased up to a maximum of 4 years should the aggravating circumstances be present. Abovementioned article also contains the examples of aggravating circumstances: the Athlete or other

Person committed the anti-doping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person used or possessed multiple Prohibited Substances or Prohibited Methods or used or possessed a Prohibited Substance or Prohibited Method on multiple occasions and some other examples.

14. The Commission suggests that the burden of proof rests on the anti-doping organization. Therefore, IAAF and ARAF should have proved that this case involves aggravating circumstances. However, evidence which could confirm the presence of aggravating circumstances was not provided.
15. Expert opinions submitted by the IAAF do not contain direct indications that the anti-doping rule violation committed by the Athlete involved any aggravating circumstances.
16. Thus, the Commission does not see any reason to depart from the standard sanction of 2-year period of ineligibility. Thereafter, the Commission rules that the Art. 40.2 of the IAAF Anti-Doping Rules shall be applied in this matter and the Athlete shall be sanctioned with the 2-year ineligibility period.
17. Under Art. 40.10 of the IAAF Anti-Doping Rules the period of ineligibility shall start on the date of the hearing decision providing for ineligibility or, if the hearing is waived, on the date the ineligibility is accepted or otherwise imposed. Any period of provisional suspension shall be credited against the total period of ineligibility to be served. Given that the Athlete had been provisionally suspended from 24 January 2013, the total period of ineligibility shall end on 23 January 2015.
18. Additionally, the Commission shall annul all competitive results of the Athletes from 9 October 2009 according to Art. 40.1 and 40.8 of the IAAF Anti-Doping Rules. The Commission determined the date of 9 October

2009 as the date of an anti-doping rule violation on the basis of her blood profile.

**CHAIRMAN:**

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Zelichenok V.B.

**MEMBERS:**

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Maslakov V.M.

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Avramenko V.A.

**SECRETARY**

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Sinelobov S.P.

199. In paragraph 9 of the Decision, there is a reference to LS having been notified about the alleged violation and her right to request a hearing. LS and IS deny this.<sup>188</sup> As I have already noted in [141], VB sent me a document dated 12 March 2014 which purports to show that, on that date, LS refused to receive the documents related to her anti-doping rule violation, that she was notified about the violation and possible sanctions and that she was told of her right to request a hearing.<sup>189</sup>

200. In paragraph 17 of the Decision reference is made to a provisional suspension. VB told me that he had no knowledge of a provisional suspension.<sup>190</sup> No provisional suspension appears to have been issued. The reference to a provisional suspension appears to be a reference to LS withdrawing from competition when pregnant.

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<sup>188</sup> [Witness statements\Lilya and Igor Shob\150311 SHO- Igor Shobukhov Signed Witness Statement.pdf](#), para. 69 and see Mike Morgan letter [Witness statements\Lilya and Igor Shob\Letter of 22 May 2014 from Mike Morgan to GD.pdf](#)

<sup>189</sup> [Witness statements\V Balakhnichev\17. Attachment to A Lenon email 15 10 2014 - statement in English re LS and events of 12 03 2014.pdf](#)

<sup>190</sup> [Witness statements\V Balakhnichev\12. Email response 03 10 2014 to letters of 08.09.2014 and 15.09.2014.pdf](#)

201. There is no reference in this Decision to the acceptance of sanction.

*Acceptance of sanction form*

202. I now turn in some detail to the matter of the acceptance of sanction which purports to bear the signature of LS and the date 28 March 2014.

203. On 7 March 2014 Thomas Capdevielle sent to VB and Sergey Sinelobov (administrative assistant of VB and Secretary of the ARAF anti-doping Commission) an acceptance of sanction form to be filled in by LS.<sup>191</sup> On 8 April 2014 Thomas Capdevielle acknowledged by email receipt of an acceptance of sanction form<sup>192</sup> carrying the date 28 March 2014 and purporting to bear the signature of LS. The form purporting to have been filled in by LS was sent by fax to IAAF with no covering letter.<sup>193</sup>

204. The document produced from the IAAF files is in the following form:<sup>194</sup>

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<sup>191</sup> [Witness statements\T Capdevielle\E-mail to ARAF 8-04-15.pdf](#). The email reads in part: "We are in receipt of the IAAF acceptance of sanction form signed by Ms Shobukhova. We would now kindly ask you to ratify this acceptance of sanction through an ARAF decision. I have attached a template for your ease of reference." The template will be found attached to the email.

<sup>192</sup> [Witness statements\T Capdevielle\Exhibit AB5- Acceptance of Sanction document.pdf](#)

<sup>193</sup> [Witness statements\T Capdevielle\TC to VB 7 March 2014 with attachment.pdf](#). See also [Witness statements\T Capdevielle>Email chain 08 06 2015 re acceptance of sanction.pdf](#). Kyle Barber appears to be wrong when he says the acceptance of sanction was received by return, unless another copy was sent. The date of the sending of the fax is wrong and, despite enquiries of VB and AM, I have not tracked down the number from which the fax was sent. An analysis of that form shows that the wording on it differs from the wording on the draft acceptance of sanction forms sent in 2012 and 2013.

<sup>194</sup> [Witness statements\V Balakhnichev\29. Attachment to email to VB 20 12 2014 - signed acceptance of sanction.pdf](#)

**INTERNATIONAL ASSOCIATION OF ATHLETICS FEDERATIONS****ACCEPTANCE OF SANCTION**

I, **Lilya Shobukhova** (born 13 November 1977), accept the following sanction as a result of an abnormal Athlete Biological Passport profile consisting of five blood variables measurements between 9 October 2009 and 7 October 2011, in violation of the International Association of Athletics Federations ("IAAF") Rule 32.2 (b). I acknowledge that I have violated IAAF Rules and I accept the following:

- pursuant to Rule 40.2, a period of two years' ineligibility from participating in any capacity in athletics competitions or activities as from the date I voluntarily withdrew from competition on or around 24 January 2013;
- disqualification of all competitive results obtained since 9 October 2009, including forfeiture of any title, award, medals, points and prize and appearance money.

I do not contest the above sanction determined under IAAF Rules for a first anti-doping rule violation under IAAF Rule 32.2 (b) and I have agreed to the violation. I voluntarily, knowingly and intelligently waive any and all rights to appeal the decision of the All Russia Athletic Federation which will be taken as a result of the present acceptance of sanction.

I understand and accept that, under IAAF Rules, my doping violation may be publicly announced.

  
\_\_\_\_\_  
Signature of Lilya Shobukhova

28.03.2014  
\_\_\_\_\_  
Date

205. LS denies ever signing the form.<sup>195</sup> It is clear from her statement that LS/IS wanted confirmation that the money had been transferred before she would consider signing anything. That confirmation did not arrive until 30 March and it seems very unlikely that she would have signed an acceptance of sanction on 28 March. Mike Morgan in the letter to which I have already referred [199], stated that LS had seen no documents in relation to the anti-doping violation.

<sup>195</sup> [Witness statements\Lilya and Igor Shob\](#)[Morgan Sports Law email of 24 06 2015.pdf](#) and [Witness statements\Lilya and Igor Shob\](#)[22 06 2015 LS statement that did not sign acceptance of sanction.jpg](#)

206. Furthermore and importantly Mr Michael Handy, a handwriting expert, has examined the form and specimen signatures from LS and finds strong evidence that she did not sign the form.<sup>196</sup>

207. I asked VB about the acceptance of sanction form in a letter dated 15 September 2014.<sup>197</sup> I wrote:

On 2 June 2014 you sent an email to Dr Dollé containing the following:

We have discussed this case with Habib and preliminary agreed not to use Acceptance of Sanction since the Athlete is going to challenge her signature. In this regard we propose to render a decision based only on analytical issues without mentioning her acceptance. Should the Athlete decide to appeal in CAS, the IAAF may also submit an appeal and require 4-year ban. Mentioning the Acceptance of Sanction could cause long proceedings involving some expert issues concerning her signature. Although we are confident that the results of such expertise will be negative for Athlete, it can take a lot of time and publicity around her case. Given that her profile is 100% persuasive, it is more easier to render a decision based only on analytical data.

If you agree, we will make new written notification for the IAAF dated April 2014 without mentioning the Acceptance of Sanction.

Please provide me with a copy of the original notification/decision and the Acceptance of Sanction which she signed.

In a later email dated 10 June 2014 Victor Berezov wrote an email to Thomas Capdevielle referring to “controversial data about [LS’s] postal address”. The email continued “Since the Athlete behaves towards us in aggressive and destructive manner, we decided to be very careful in this regard. In 2-3 days we will receive exact actual information on her address and immediately send her our decision.”

Please explain the full background to this email and send me a copy of all ARAF correspondence with the athlete and/or agents, including Mr Baranov and Morgan Sports Law.

208. VB replied on 3 October 2014:<sup>198</sup>

8. I attach

- a copy of ARAF’s original notification/decision;
- a copy of the Acceptance of Sanction bearing what appears to be the athlete’s signature although I do not know whether she actually signed it;
- copies of the ARAF correspondence with the athlete and her agents.

9. The reference to the Athlete’s aggressive and destructive behaviour is a reference to the response of the athlete and her husband to her suspension.

<sup>196</sup> [Exhibits\Ex 5 Expert Report of Michael Handy - Forensic Document Services.pdf](#)

<sup>197</sup> [Witness statements\V Balakhnichev\11. Letter to VB 15 09 2014.pdf](#)

<sup>198</sup> [Witness statements\V Balakhnichev\12. Email response 03 10 2014 to letters of 08.09.2014 and 15.09.2014.pdf](#)

10. We were unsure about her exact postal address since we had conflicting information in this regard, and after receiving reliable information we sent her the decision via postal service.

209. No attachments came with the email. On the day I received the email from VB, I therefore wrote to him: "I have just noticed that the attached documents which you intended to send, did not come through. Please could you send them again."

210. I did not receive a reply from VB but did receive a reply from Mr Lennon. He sent me an email on 9 October 2014<sup>199</sup> in which he wrote:

Further to Mr Balakhnichev's email to you dated 3 October 2014 and your response to him of the same date (below), Mr Balakhnichev has asked me to forward you the following documents:

- The ARAF decision (in Russian together with an English translation);
- A signed statement evidencing that the athlete refused to accept documents relating to her anti-doping rule violation (in Russian together with an English translation).

Mr Balakhnichev has also asked me to clarify that, although the ARAF offered the athlete, through the coaching staff of the National Team, the possibility of signing an Acceptance of Sanction, and was subsequently informed that there was in existence an Acceptance of Sanction signed by the athlete, the ARAF never received such a document. Nor has the ARAF ever had any correspondence with the athlete or her agents relating to the anti-doping rule violation.

211. In the light of the email at paragraph 208 above, on 29 April 2015 I wrote to VB<sup>200</sup>:

25. It could be said that your email of 2 June is inconsistent with your assertion that ARAF never received a signed acceptance of sanction from LS. Given that, according to you, the first version of the decision mentioned the signed acceptance of sanction, it would seem improbable that ARAF did not have a copy of it. The conclusion that could be drawn is that LS never signed an acceptance of sanction and that someone in ARAF forged her signature on an acceptance of sanction and sent it to the IAAF. Someone in ARAF then decided not to use the forged version and a new version of the decision was produced not mentioning the signed acceptance. I have not been provided with the original version of the decision. Please provide it to me if you are able to do so.

212. VB replied on 31 May 2015<sup>201</sup>:

I do not accept that LS did not know about the ARAF hearing or that she did not sign the Acceptance of Sanction (paragraphs 21 – 25). Contrary to your letter, there is no

<sup>199</sup> [Witness statements\VBalakhnichev\13. A Lennon email 09 10 2014 on behalf of VB.pdf](#)

<sup>200</sup> [Witness statements\VBalakhnichev\31. Revised final letter 29 04 2015.pdf](#)

<sup>201</sup> [Witness statements\VBalakhnichev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

inconsistency between the fact that ARAF never received the signed Acceptance of Sanction and the fact that the signed Acceptance of Sanction was referred to in ARAF's first draft notification. ARAF was informed that LS had signed the Acceptance of Sanction but did not actually receive it.

213. Although I had asked VB in my letter of 29 April 2015 to provide me with a copy of the original decision, he did not send me a copy of the original version of the decision which might have enabled me to know whether, contrary to what VB states, the Anti-Doping Commission of ARAF did see a copy of the "signed" acceptance of sanction at the time they wrote the original decision.

214. Given that the original version of the decision had relied on the signed acceptance of sanction (albeit, according to VB, he had never seen it and ARAF had never had it in their possession), the Anti-Doping Commission of ARAF were, in effect, bound to suspend LS for two years. When the second version of the decision was prepared between 2 and 3 June 2014,<sup>202</sup> the Commission faced a difficulty. In the absence of a signed acceptance and given the persistence of the offending, a four year ban would normally have been imposed. A reading of the second decision shows how the Commission sought to overcome the difficulty, but not in a manner which satisfied the IAAF which launched an appeal to CAS seeking a four year ban. The appeal has, I believe, been compromised but I do not know the details. HC was counsel to the IAAF.

215. I asked VB again about the signed acceptance of sanction which he apparently intended to attach to his email, and he said again that he had never seen a document with the signature of LS.<sup>203</sup> It is surprising that VB wrote an email in which he says that he was attaching the signed acceptance of sanction in the light of the fact that he is saying that neither he nor ARAF ever saw a signed acceptance of sanction. I asked VB in an email dated 20 February 2015<sup>204</sup> about the telephone number, 201 1757, on the top of the faxed copy of the sanction.<sup>205</sup> He replied<sup>206</sup> that he had no knowledge of the telephone number and had never seen the document before.

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<sup>202</sup> See para. 211 above.

<sup>203</sup> [Witness statements\VBalakhnichev\34. Email response 16 06 2015 re acceptance of sanction.pdf](#)

<sup>204</sup> [Witness statements\VBalakhnichev\27. Email to VB 20 02 215 requesting further details.pdf](#)

<sup>205</sup> [Witness statements\VBalakhnichev\29. Attachment to email to VB 20 12 2014 - signed acceptance of sanction.pdf](#)

<sup>206</sup> [Witness statements\VBalakhnichev\30. Email response 04 03 2015 to email of 20 02 2015.pdf](#)

216. The date April 9 2013 inserted by the fax machine at the top of the faxed copy must be wrong in the light of the fact that it was received on or just before 8 April 2014.

217. I turn now to the date next to the signature on the acceptance of sanction: 28 March 2014.

218. The fact that the acceptance of sanction form purporting to be signed by LS bears the same date as the bank confirmation and the two emails Bonnot to VB and VB to AM provides strong evidence in support of the account of the transfer given by LS/IS. Whereas according to VB and AM the transfer had nothing to do with any repayment of monies, the fact that the allegedly forged form bears the same date as the bank transfer suggests very strongly otherwise. It is to be remembered that, at this time, ARAF were under considerable pressure to resolve the matter and take disciplinary action against LS, see [129], [135] and [137].

219. It may be helpful to highlight some of the dates:

1. 7 March 2014 - the date on which Thomas Capdevielle sends to VB and his assistant the acceptance of sanction form for LS, [137].
2. 12 March 2014 - the date on the document which purports to show that LS refused to receive the documents related to the anti-doping violation and was told of her right to an oral hearing, [141] and [199].
3. 28 March 2014 - transfer out of the Black Tidings Account of €300,000 euro, [150].
4. 28 March 2014 - the date on which the acceptance of sanction form purports to have been signed by LS, [108] and [203].
5. 30 March 2014 - date of email from AM to LS with accompanying document confirming the transfer, [186].
6. On about 8 April 2014 - receipt by the IAAF of a faxed copy of the acceptance of sanction form purporting to be signed by LS and purporting to be dated 28 March 2014, [187], [188] and [203].

7. 8 April 2014 - the date on the ARAF Anti-doping Commission decision. This can only be the date of the original decision relying on the signed acceptance of sanction and not the date of the decision sent to the IAAF on 3 June 2014, [187] and [189].
8. 10 April 2014 - the date on which ARAF notified the IAAF of the ARAF Anti-doping Commission decision. The last paragraph of that notification refers to an understanding that LS has waived all her rights of appeal, [189].
9. 3 June 2014 – the date on which ARAF sent to the IAAF the decision suspending LS, [190] and [196].

220. I told AM on 3 June 2015 that there is evidence that the IAAF was sent, by fax, from telephone number 2011757, an acceptance of sanction containing the forged signature of LS and the date 28 March 2014 and asked him whether he knew anything about that.<sup>207</sup> He replied: “I know nothing about this and I have nothing to say in this regard.”

*Evidence of an attempt to persuade Andrey Baranov to withdraw his allegations*

221. In July 2014, according to Andrey Baranov,<sup>208</sup> AM unsuccessfully sought to persuade him to withdraw as false the statements he had made about the LS case to the IAAF. A draft letter withdrawing the allegations was sent to AB for him to sign. The letter was sent in an email from Maxim Petrov (maxim1812@yahoo.com) to AB.<sup>209</sup> The letter headed “New York” was addressed to Mr Beloff QC and dated 11 July 2014. AB did not send it. Given the amount of evidence suggesting that AM has been involved in extracting money from LS and then covering that up and the fact that this allegation is not referred to in the letter to AM from Mr Michael Beloff QC dated 19 December 2014, I have not followed this up with AM.

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<sup>207</sup> [Witness statements\A Melnikov\6. AM Request for written submissions.pdf](#), para. 28.

<sup>208</sup> Paras. 37 and following of [Witness statements\Andrey Baranov\150311 SHO- Andrey Baranov Signed Witness Statement.pdf](#)

<sup>209</sup> [Witness statements\Andrey Baranov\Exhibit AB6 - Email attaching draft letter to Beloff.pdf](#)

## **Conclusions**

### *Factual conclusions*

222. There are a number of factual conclusions which can be drawn from the evidence and which, if “established”, would justify a finding of a violation or violations. A factual conclusion is “established” if there is a realistic prospect that the Ethics Commission will find that it is established beyond a reasonable doubt. I shall apply this test to the factual conclusions but not necessarily to any individual fact upon which reliance is placed to reach a factual conclusion. A factual conclusion may be drawn from a number of facts which individually are “likely” or “probable” as well as “certain”.

223. The factual conclusions are:

1. In 2011-2012 AM told LS and IS that, if money was paid to AM, the name of LS would be removed from a list of Russian athletes with suspicious ABP profiles. In consequence they paid AM directly or indirectly in 2012 the equivalent of a total of €450,000.
2. The failure to take disciplinary action in 2012 to April 2014 against LS was likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, or likely to bring the sport into disrepute.
3. No disciplinary action against was taken against LS in 2012 to April 2014 because VB, AM and other persons had agreed that, if LS paid money, no such action would be taken.
4. The transfer of €300,000 from an account in the name of Black Tidings with the Standard Chartered Bank in Singapore into an account in the name of IS in Russia was a partial repayment of the €450,000 paid to AM by LS and IS in 2012.
5. The signature purporting to be that of LS on the acceptance of sanction form dated 28 March 2014 sent by facsimile to the IAAF on about 8 April 2014 was forged.

224. Given the importance of the accounts given by LS and IS, their role in this matter and the fact that LS has been found to have used a prohibited substance or prohibited method

in the period 2009-2011, I shall assume that the Ethics Commission may take into account, when assessing their credibility, their character and the presence or absence of supporting material. As to the character of LS, she admits that she has committed doping violations, including during the year 2012.<sup>210</sup> I shall also assume that the Ethics Commission may take into account when assessing the credibility of the account given by Andrey Baranov, the presence or absence of supporting material.

225. VB states that Andrey Baranov has a long standing grudge against ARAF and would not hesitate to give false evidence against “us”.<sup>211</sup>

226. AM says this about the credibility of LS, IS and Andrey Baranov:<sup>212</sup>

First of all, I shall note that all accusations set out in your letter of 3 June 2015 are based exclusively on the WORDS of people whose credibility and honesty had been drastically undermined during their life in the world of athletics.

Ms Liliya Shobukhova and her husband Mr Igor Shobukhov are doping cheaters who were competing throughout their entire career unfairly and dishonestly. Ms Liliya Shobukhova were manipulating with her blood in order to enhance her performance and after having been caught and sanctioned she went on with the deception.

She and her husband were claiming in media<sup>213</sup> that all doping accusations against her are unfounded while within the CAS procedure she admitted the commitment of an anti-doping rule violation and signed settlement agreement and accepted all legal consequences including ineligibility and disqualification of results.

Hence, Mr Shobukhov and Ms Shobukhova may not serve as witnesses against me since it is impossible to trust them and to believe their statements.

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<sup>210</sup> [Exhibits\Ex 7 08-11-2014 WADA LS Debriefing Report.pdf](#)

<sup>211</sup> [Witness statements\V Balakhnichev\32. Email response to Revised final letter of 20 04 2015.pdf](#)

<sup>212</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

<sup>213</sup> I asked IS and LS about this and on 2 July 2015, Morgan Sports Law in [Witness statements\Lilya and Igor Shob>Email from Morgan Sports Law 02 07 2015.pdf](#) wrote :

“Andrey and Liliya have not communicated with the press.

Igor has, however, occasionally communicated with the media (we believe just the Russian press):

(1) Igor told the press in mid-2014 that he had not seen many of the documents relating to her anti-doping rule violation – this was true. Igor thus maintained that Liliya’s guilt was not proven until the investigation was completed. It is likely that he also denied Liliya’s guilt.

(2) We have repeatedly asked Igor not to speak with any media and, generally, he has followed our advice. However, a couple of months ago, ARAF told the press about the (confidential) CAS Settlement Agreement (which was still being negotiated). Igor and Liliya were subsequently bombarded by press requests. Frustrated by ARAF’s breach of confidentiality, Igor made some comments to the press denying that any settlement had been made (which was correct since nothing had been signed at that point) and denying that Liliya had admitted to doping.”

The second witness is Mr Andrey Baranov whose disgusting reputation in the world of athletics is well known. More detailed information concerning Mr Baranov's activities will be available later.  
AM also wrote:<sup>214</sup>

In regard to other parts of your letter, I insist that the statements of Mr Shobukhov, Mrs Shobukhova and Mr Baranov concerning alleged corrupt payments are false. Their deceivable statements are a vengeance for my denial to assist them in their wish to hide commitment [commission] of an anti-doping rule violation.”

AM has not given details to support this allegation. AM continued:

“I consistently fight against doping in sports and my position concerning Ms Shobukhova has always been and still is very tough. I strongly believe that these cheaters shall be dropped off from the professional sports in any capacity and they were aware about my position from the very beginning.  
I have never participated in any unlawful activities and I have never taken any money for assistance in covering-up anti-doping violations.”

227. There is evidence in the Hajo Seppelt film contradicting AM’s denial of ever participating in unlawful doping.<sup>215</sup>

*Factual conclusion d.*

228. I start with factual conclusion d., the transfer of the €300,000, because a finding that d. is established would be important when considering the other conclusions.

229. AM and VB do not dispute that €300,000 was transferred from an account in the name of Black Tidings with the Standard Chartered Bank in Singapore into an account in the name of IS in Russia. They do not dispute that they emailed LS to tell her that the transfer had been made and that they attached the bank confirmation. They do dispute that the transfer was made in partial repayment of the equivalent of €450,000 which LS and IS say they had paid AM in 2012. They say that their role was no more than to assist LS obtain a payment from someone in circumstances of which they were unaware.

230. If the accounts given by AM and VB as to the circumstances of the transfer of the €300,000 are not credible, it would follow that the €300,000 was, as LS and IS say, a partial repayment of monies earlier paid. If it was a repayment, that would provide very strong evidence to support the account of LS and IS on issue a., namely that AM

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<sup>214</sup> [Witness statements\A Melnikov\7. AM Response to Request for written submissions 01 07 2015.pdf](#)

<sup>215</sup> [Exhibits\Ex 6. ARD Full Transcript.docx](#).

received from them the equivalent of €450,000 so that LS would be removed from a list of Russian athletes with suspicious ABP profiles.

231. In his first account [163] VB states that Mr Bonnot, whom he did not know personally, approached ARAF with a request to provide him with bank details of Mrs Shobukhova. He said that ARAF frequently receives such requests from third parties concerning information about athletes of the national team, that ARAF acts as a liaison between athletes and third parties and therefore he was not surprised to receive such a request. According to VB he did not know to what the payment related.

232. In response to a further request for information from me, VB stated [167]:

My two email addresses: valentin1949@gmail.com and valentin@iaaf.ru are both well known to people active in the athletics world. I use both addresses for private and official IAAF business. There is therefore nothing significant about the fact that Mr Bonnot used my gmail address. When I said that I regularly delete emails, I was referring to both email addresses.

233. In response to further queries from me about the email address used by Bonnot, VB said [169]:

I do not remember to which e-mail address Mr Bonnot made his original request. It is possible that the request was made to valentin1949@gmail.com.

234. Having first said that Bonnot approached ARAF, VB changes his account to Bonnot approaching VB on the gmail address and then changes his account again to it being possible that Bonnot used the gmail address. He confirms that the first approach from Bonnot was by email [169].

235. VB states that he contacted AM by email for LS's bank details and received her details from AM. Although LS has produced the email to AM with her details,<sup>216</sup> neither AM or VB has produced the email from VB to AM asking for the bank details, from AM to VB with the bank details and from VB to Bonnot with the bank details. When I asked [164] VB to send me copies of the email chain "from you to Melnikov, Melnikov to Shobukhova, Shobukhova to Melnikov, Melnikov to you and you to Bonnot", he replied [165]:

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<sup>216</sup> [Witness statements\Lilya and Igor Shob\Email from Shobukhova to Melnikov - 15.03.14.pdf](#).

I have not been able to obtain copies of the email chain referred to in my email to you of 19 December 2014. Please note that I routinely delete incoming emails shortly after receipt in order to free up space in my email inbox. ... It is my usual practice to keep only important correspondence in my email inbox.

236. I asked him if he had also deleted sent mail and why [166]. He later wrote [169]: “I also confirm that all emails to and from Mr Bonnot and to and from Mr Melnikov have been deleted and cannot now be accessed.”

237. VB also said [167]: “I am afraid that I not have the technical ability to trace emails from the ARAF server.” Whilst VB may not have the necessary technical expertise, others within ARAF must have and VB must know this. The fact that he has not asked for a search of the ARAF server supports the conclusion that, as VB originally stated, Bonnot communicated with the gmail address and not the ARAF address.

238. VB states [167] that the “two email addresses: valentin1949@gmail.com and valentin@iaaf.ru are both well known to people active in the athletics world” and that he uses “both addresses for private and official IAAF business”. But he also states [169] that he does “not remember whether any requests were made from persons whom I do not know to valentin1949@gmail.com concerning athletes’ bank account details or to make a bank transfer.”

239. The fact, as appears strongly to be the case, that the email correspondence between Bonnot and VB was on the gmail address supports the conclusion, notwithstanding what VB says about the use of the two addresses, that VB must have given Bonnot the gmail address to use and did so to avoid leaving a trail on the ARAF server.

240. AM says that he forwarded LS’s bank details to VB [173] and claims that all emails were deleted [175]:

Correspondence that you mentioned was not kept. All outgoing e-mails were automatically deleted due to respective settings in my e-mail box. Regarding incoming e-mail letters I cannot find them and I suggest that they were also deleted after some time since they were not important for me and I did not see any reason to keep them.

241. I have asked VB and AM where they were on 28 March when VB received the Bonnot email and AM received the VB email. VB says he does not know and AM has said that he assumes that he was in Moscow [155].

242. There are a number of serious improbabilities in the accounts of VB and AM:

1. All the VB emails and AM emails relating to the proposed transfer and the transfer have been deleted, both ingoing and outgoing;
2. Bonnot was able to contact VB out of the blue on his gmail address rather than the ARAF address; and
3. The fact that, on the VB account, LS was owed a large sum of money even though she had not competed since the Chicago Marathon and was owed the large sum by someone who did not know how to contact her and instead had to, and was able to, contact VB directly for her details.

243. I now turn to the account given by Ianton Tan [159] and [161]. He says that Bonnot contacted him and told him that he was acquainted with VB and PMD. He subsequently received an anonymous phone call from a person whom he thought was PMD, verifying that Mr. Bonnot was indeed his friend. PMD later told Ianton Tan that he was not acquainted with Bonnot and had not made the call. He also says that he was defrauded of the €300,000 and has not been able to trace Bonnot to get it back. He is not willing to hand over the bank statements of Black Tidings.

244. Much of Ianton Tan's account is, like the account of VB and AM, so improbable as not to be true.

245. If the account given by VB and AM of the transfer were true, it would follow that LS, IS and Andrey Baranov were setting up VB and AM by doing the following:

1. finding a Jean Pierre Bonnot (now untraceable) and arranging for him to contact VB at the email address valentin1949@gmail.com (and not his official address with the IAAF) with a request to help in the transfer of money to LS in the hope that VB would then ask LS for the details of an account into which the transfer could be made and in the further hope that VB would remain involved in the transfer;
2. sending AM on 15 March 2014 the details of the new IS bank account;

3. arranging for Bonnot to contact Ianton Tan in Singapore, about whose existence they would not have known and who happens to be a business associate of PMD who Andrey Baranov, LS and IS also did not know;
4. by arranging for Bonnot to pretend to Ianton Tan that he knew VB and PMD when making contact with him and by making an anonymous call to Ianton Ton pretending to be PMD in the hope that Ianton Tan would not contact PMD directly and find out the alleged “truth”, namely that PMD did not know Bonnot;
5. by arranging for Ianton Tan to make a transfer from Black Tidings to IS of €300,000 without putting Black Tidings in funds either before or after the transfer and taking the risk that Ianton Tan might not make the transfer until the €300,000 money had been transferred to him, with the result that Black Tidings and Ianton Tan were defrauded of €300,000;
6. by arranging for Bonnot to email VB with the confirmation of the transfer in the hope that VB would forward his email and the accompanying bank confirmation to AM who would forward it to LS.

246. In addition, Sean Wallace-Jones states [131] that on 28 March, the very day of the bank transfer:

in the evening I met Baranov who was in Copenhagen for the [World Half-Marathon] Championships and staying at the official hotel. He told me that his athlete had been contacted by the Russian Federation and asked to sign a paper accepting a suspension; she had been told that the Federation would pay her back 300,000 (he did not specify the currency at that time).

247. It is quite impossible to imagine that Andrey Baranov, LS and IS could have pulled off such an elaborate and problematic scheme in order to discredit VB and AM.

248. In [218] above I wrote:

The fact that the acceptance of sanction form purporting to be signed by LS bears the same date as the bank confirmation and the two emails Bonnot to VB and VB to AM provides strong evidence in support of the account of the transfer given by LS/IS. Whereas according to VB and AM the transfer had nothing to do with any repayment of monies, the fact that the allegedly forged form bears the same date as the bank transfer suggests very strongly otherwise.

249. For these reasons<sup>217</sup> I am satisfied that there is a realistic prospect that the Ethics Commission will find that the transfer of €300,000 from an account in the name of Black Tidings with the Standard Chartered Bank in Singapore into an account in the name of IS in Russia was, as LS and IS say it was, a partial repayment of the €450,000. It could not have been a transaction quite unrelated to what had happened in earlier. It follows that I am satisfied that there is a realistic prospect that the Ethics Commission will find that VB and AM were knowingly involved in the transfer and are not telling the truth about the transfer and that LS and IS are.

250. I turn to PMD. I have set out his denial of any involvement in the transfer and any knowledge of payments made by LS [179 and following]. Given my conclusion that that there is a realistic prospect that the Ethics Commission will find that the transfer of €300,000 was a partial repayment of the €450,000, there is also a realistic prospect that the Ethics Commission will find that it is inconceivable that the transfer was set up by VB using the services of Ianton Tan without PMD having been involved. There is no suggestion that VB knew Ianton Tan, but VB knows PMD [116]. The link between VB and Black Tidings must be PMD who Ianton Tan described as “his personal friend since 2008” and a business associate. PMD confirms that Ianton Tan is a marketing consultant who helped PMD with the PMD Consulting website and is advising PMD “in our sales and sponsor servicing in the People's Republic of China”. PMD says: “We are using his services as consultant to service our marketing relationship with Chinese sponsors, broadcasters and the Local Organizing Committee of the Beijing 2015 World Championships.” (180)

251. I am satisfied that there is a realistic prospect that the Ethics Commission will find that PMD was knowingly involved in the transfer.

*Factual conclusion e.*

252. I turn now to factual conclusion e., namely: the signature purporting to be that of LS on the acceptance of sanction form dated 28 March 2014 sent by facsimile to the IAAF on about 8 April 2014 was forged.

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<sup>217</sup> My conclusion does not necessarily depend upon every reason given.

253. I have set out in detail the evidence about the acceptance of sanction form in [202 and following], including the opinion of the handwriting expert and the significance of the date 28 March 2014.

254. For the reasons set out in those paragraphs, I am satisfied that there is a realistic prospect that the Ethics Commission will find that the signature purporting to be that of LS on the acceptance of sanction form dated 28 March 2014 sent by facsimile to the IAAF on about 8 April 2014 was, as LS says, forged.

255. Although there might be other reasons why the signature was forged, the fact that it was forged suggests very strongly that VB and others in ARAF were involved in a cover-up and that VB has not told the truth about the forgery and his knowledge of it.

*Factual conclusion a.*

256. I turn to factual conclusion a., namely: in 2011-2012 AM told LS and IS that, if money was paid to AM, the name of LS would be removed from a list of Russian athletes with suspicious ABP profiles. In consequence they paid AM directly or indirectly in 2012 the equivalent of a total of €450,000.

257. As I have already said, I am satisfied that there is a realistic prospect that the Ethics Commission will find that the transfer of €300,000 from an account in the name of Black Tidings with the Standard Chartered Bank in Singapore into an account in the name of IS in Russia must have been a partial repayment of the €450,000 paid to AM by LS and IS earlier.

258. I have set out the evidence of LS and IS [37], [46], [94] which describes in detail, with supporting documents, the payments to AM. The broad sequence of events in the period 2011-2012 is:

1. On 18 November 2011 Thomas Capdevielle sends HC a Note interne sur le suivi des athlètes russes dans le cadre du Passeport Biologique de l’Athlète (PBA), with the name of LS on the list [18], [19].
2. Andrey Baranov describes receiving a call from AM on 1 December 2012. AM tells him about a list of Russian athletes with suspicious profiles, that the name

of LS was on it and that this was a serious matter which needed to be addressed, [26] and following.

3. According to LS and IS: “At the end of December, Melnikov called Liliya and told her about the List. He informed us that we needed to pay €150,000 in cash to have Liliya’s name removed from the List”. \$100,000 was withdrawn from LS’s account towards the amount to be paid (supporting documentary banking evidence supplied).
4. According to LS and IS: “On 12 January 2012, I travelled to Moscow with Liliya on her way to her National Team Training camp. We had packed the \$190,000 USD cash in our luggage. On the same day, Liliya and I made a stop at the Melnikov’s offices located at the Olympic Committee Building which is also ARAF’s headquarters. We handed the cash to Melnikov and he placed it within a safe in his office. Then Melnikov told us not to worry anymore and confirmed that we could proceed to the training camp in Portugal. Melnikov assured us that he would speak with the IAAF and that there would be no doubt about Liliya’s participation at London 2012.” The air tickets produced by them shows that they were in Moscow that day.
5. It is not clear from the responses he has provided whether by this stage Melnikov was aware of the findings of the three experts. In the light of the evidence relating to the list given by LS, IS and Andrey Baranov, of the evidence that such a list existed and had been sent to HC in November 2011 and of the evidence of HC’s involvement in the matter, I am satisfied that there is a realistic prospect that the Ethics Commission will find that AM had had in November/early December a list of Russian athletes with suspect ABP profiles, with the name of LS on it which would enable him (should he so wish) to put pressure on LS to pay money to have her name removed from the list.
6. AM states that he was in Sochi on 12 January 2012 and produces an undated letter of confirmation and an invoice [50]. He says that he drove to Sochi [53]. The genuineness of this documentation must be suspect given the other evidence of AM’s involvement in these matters.

7. On 10 May 2012 HC received, for delivery to ARAF, an IAAF notification letter in relation to LS and in similar terms to the later letter of 12 June 2012, [59] and following.
  8. According to LS and IS, “In early June 2012 Liliya received a call from Melnikov who, to our surprise, told us that the previous payment of €150,000 (\$190,000 USD) had proved insufficient to have her name removed from the List. Melnikov explained that Liliya would now not be allowed to compete at London 2012 unless she made a further payment of €300,000. We asked Melnikov who the first payment had gone to, and Melnikov said that it was provided to a lawyer (the “Lawyer”) but Melnikov did not give Liliya any further information. Melnikov once again assured us that with the payment of €300,000, Liliya’s case would be considered closed and she could then compete at London 2012 and future marathons without any difficulty. Melnikov concluded the call by telling us to gather the money together and that he would call us back in a few days with instructions for the payment, which needed to be made before London 2012.”
  9. GD sends VB the letter of 12 June 2012 requiring VB to take action. No action against LS is taken and there is no adequate explanation for the failure [66 and following].
  10. According to LS and IS, further payments of the equivalent of €150,000 were made on 18 June and 11 July 2012 when they were in Moscow. They produce the tickets and boarding passes [89] and [102]. A total of €450,000 was paid according to LS and IS, of which 300,000 was repaid in 2014.
  11. LS ran in the London Olympics marathon on 5 August 2012 [87] and in the Chicago Marathon on October 7 2012, notwithstanding that it was highly likely, given the absence of any explanation from LS, that her profile was the result of the use of a prohibited substance or prohibited method over a period of time such that her world record in the 2011 Chicago Marathon was not ratified by the IAAF [24-25].
259. The evidence of LS and IS is denied by AM. Notwithstanding this denial and the fact that LS and IS changed their original statement as to who received the money on 18 June

and 12 July [91], I am satisfied that there is a realistic prospect that the Ethics Commission will find their evidence to be credible, supported as it is by documents which they produce and findings b., c., d. and e.. I am therefore also satisfied that the Ethics Commission will find that in 2011-2012 AM told LS and IS that, if money was paid to AM, the name of LS would be removed from a list of Russian athletes with suspicious ABP profiles and that in consequence they paid AM directly or indirectly in 2012 the equivalent of a total of €450,000.

*Factual conclusion b.*

260. I turn to factual conclusion b. namely: The failure to take disciplinary action<sup>218</sup> in 2012 to April 2014 against LS was likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, or likely to bring the sport into disrepute.
261. There is no dispute that no action was taken against LS following the 12 June letter 2012. VB accepts: “that the potential anti-doping violation ought to have been pursued more promptly than it was” [71].
262. I have set out the circumstances surrounding the June 12 2012 letter, [66] and following. Although it could be argued that action should have been taken before June 12, I have set out why there was a justifiable delay on the part of IAAF at least until May 2012 [55 and following]. I shall therefore concentrate on why the VB failed to take action against LS after June 12 and why GD failed to ensure that action was taken by ARAF or to take action himself, such as provisionally suspend the athlete, [70] and following, [80], [104] and following.
263. In 2013 LS was pregnant. The fact that she could not compete during this period was taken into account by the ARAF Anti-doping Commission when determining the length of the period of suspension [189].
264. VB mentions the pregnancy [71]. GD seems to suggest that her pregnancy was relevant in so far as the delay is concerned:[83]
- b. Des rappels ont été adressés à l'ARAF sur le retard de gestion de ce cas par téléphone et courrier (ex. de courriels : 3 décembre 2012, 15 février 2013). En fait,

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<sup>218</sup> By “to take disciplinary action”, I include “to make sure that disciplinary action was taken”.

l'athlète avait arrêté la compétition entre temps au début de 2013, notamment du fait de sa grossesse que nous avons apprise alors.

265. There is a realistic prospect that the Ethics Commission would find that the pregnancy of LS should not have prevented disciplinary action from being taken, given the importance for both the public, other athletes who were the victims of her cheating and organisers who had paid out prize money to LS.<sup>219</sup> I shall, however, concentrate on 2012.

266. I start with VB. He wrote to me [71]:

Following receipt of Dr Dollé's letter, I discussed its contents, and the question of the athlete's participation in the forthcoming Olympic Games with Dr Dollé and with Habib Cissé on behalf of the IAAF. Their opinion was that, in view of the imminence of the Olympic Games and the fact that formal charges had not yet been brought against the athlete, she would be allowed to participate in the Olympic Games. It was a matter for the IAAF whether to impose a provisional suspension and it did not do so.

267. In this passage VB is saying that GD and HC agreed with VB that LS could compete in the Olympic Games because of their imminence of the Olympic Games and the fact that formal charges had not yet been brought against the athlete. In fact she did not run until 5 August. VB is also saying that it was a matter for the IAAF to impose a provisional suspension, notwithstanding the fact that the 12 June letter required ARAF to take speedy action. There is no explanation why disciplinary action was not taken after the Olympic Games and why she was allowed to compete in the Chicago Marathon.

268. I am satisfied that there is a realistic prospect that the Ethics Commission will find that VB's explanation (even if true) for the failure to take action against LS is unacceptable and that VB's failure to take disciplinary action against LS was likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, and bring the sport into disrepute.

269. I turn to GD.

270. GD denies that he reached any agreement with VB [76].

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<sup>219</sup> See [Witness statements\V Balakhnichev\5. Attachment to response 17 07 2014 - email from Dolle to Araf 29 04 2014.pdf](#)

271. According to GD he was the only person within the IAAF to have contact with VB on the LS matter and he did not raise with his superiors his “éventuelles préoccupations à propos de l’absence de réponse” [75].

272. Does the evidence establish that GD entered into an agreement with VB and others that no disciplinary action would be taken?

273. That agreement could be the one that VB speaks of, namely in view of the imminence of the Olympic Games and the fact that formal charges had not yet been brought against the athlete, LS would be allowed to participate in the Olympic Games [262].

274. The agreement could be the one mentioned by Lamine Diack to Huw Roberts [120<sup>220</sup>], but denied by Lamine Diack himself [123]. According to Huw Roberts, Lamine Diack also told him:

that the Russian ABP cases would all be dealt with in due time in accordance with IAAF Rules but there was a concern in the short term about how the cases might have a negative impact upon the World Championships which were due to be held in Moscow that summer.

275. As to this GD states [77]:

Enfin, vous affirmez l’existence de preuves d’un accord entre l’ARAF et l’IAAF au sujet de LS dans le but de ne pas ternir l’image de Moscou 2013. Je ne peux pas croire à un tel arrangement, connaissant la rigueur et la détermination de l’IAAF dans le domaine de l’antidopage.

276. According to Thomas Capdevielle [80]:

32. When I asked Gabriel Dollé between June 2012 and the Olympic Games period, why the athlete had not been officially charged or provisionally suspended, he answered that the Russian Athletic Federation (Mr. Balakhnichev) told him (i) that the athlete had been duly informed (ii) that she had withdrawn from competition on a voluntary basis and (iii) that she would sign an acceptance of sanction.

33. I was not surprised at the time, as all Russian athletes charged with an anti-doping rule violation on the basis of an abnormal ABP profile before June 2012, had withdrawn from competition and signed an acceptance of sanction promptly after the first notification.

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<sup>220</sup> Paragraph 13 of the Huw Roberts statement [Witness statements\WS 2 H Roberts 17 03 2015.pdf](#)

277. If VB had told GD that the athlete had been duly informed, that she had withdrawn from competition on a voluntary basis and that she would sign an acceptance of sanction, VB would have been lying. GD did not record any such communication in writing and ask for written confirmation. I suggested to GD that he may have been lied to and manipulated<sup>221</sup> and he replied [77]

Je réfute également catégoriquement l'idée selon laquelle « VB, HC et d'autres vous ont menti et vous ont manipulé de ne pas prendre d'action en face du refus d'ARAF d'agir ».

278. If VB was not lying to GD, then it may be that GD was lying to Thomas Capdevielle when he said that VB had told him that the athlete had been duly informed, that she had withdrawn from competition on a voluntary basis and that she would sign an acceptance of sanction. On the other hand, Thomas Capdevielle reports that GD seemed genuinely shocked when he heard that LS had competed in the Olympic Games [88]:

34. ... I was sincerely shocked when I saw (while on holidays) Ms Shobukhova live on TV participating at the female marathon race of the Olympic Games in London in August 2012. I remember calling Gabriel Dollé who told me that he was also shocked and that he would call the ARAF President immediately. His reaction seemed genuine on the phone, and later when I saw him at the office.

35. I never had any convincing explanation from Gabriel Dollé as to why she competed at the Olympic Games, although she did not finish the race. I personally asked him several times after the Olympic Games to suspend her provisionally, as he was entitled to do, in his position as IAAF Anti-Doping Administrator. He never did.

279. Thomas Capdevielle says this about GD's inability to give any valid explanation as to why LS competed in Chicago [104]:

36. We (with other colleagues in the Department) were even more shocked when we found out that she competed at the Chicago Marathon in October 2012. Gabriel Dollé was not able to give us any valid explanation as to why she competed in Chicago.

280. Whilst GD explains why he did not take action at an early stage [55-56], he gives almost no explanation for not taking action following the failure of ARAF to act on the 12 June 2012 letter. He does say [77]:

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<sup>221</sup> [Witness statements\G Dolle\13. GD final request 07 06 2015.pdf](#)

N'ayant pas eu d'information contraire en retour, je pouvais seulement me fier à la véracité des propos de VB.

281. I wrote to him asking what he means by “des propos de VB”.<sup>222</sup> He replied:<sup>223</sup>

Mon allusion aux « propos » de VB fait référence à des échanges verbaux avec l'ARAF concernant ma lettre du 12 juin 2012 et la suite à y donner.

D'une part, je vous ai fait allusion à des rappels téléphoniques à l'ARAF dans ma lettre du 31 août 2014, et j'ai également mentionné des échanges faits verbalement dans ma réponse du 27 septembre 2014.

D'autre part, TC vous a rapporté les dires (les propos) de VB avant les jeux olympiques au sujet de l'information de l'athlète, de son retrait volontaire de la compétition...

282. In this reply GD adopts what Thomas Capdevielle wrote in paragraph 32 of his statement [275]. It is surprising that GD had not himself given me much earlier this account of what VB told him.

283. Having considered the evidence available to me concerning GD carefully I have reached the conclusion that there is no realistic prospect that the Ethics Commission will find that that GD was party to an agreement not to take disciplinary action against LS. Although GD denies that he was lied to and manipulated, it seems to me that this is the most likely explanation for his failure to act on the evidence available to me.

284. That said, GD did not take action. He says [77]:

... je réfute l'idée de ce que vous appelez « mon défaut d'agir ». En effet, il appartenait à ARAF d'initier, de conduire la procédure disciplinaire et de la conclure. Je n'ai rien fait qui empêchait ARAF d'agir et de prendre les mesures appropriées à l'encontre de l'athlète.

285. I am satisfied that there is a realistic prospect that the Ethics Commission will not agree with this and will find that the failure on the part of GD to ensure that ARAF took action and the failure on his part to take action by imposing, for example, a provisional suspension, was likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, and bring the sport into disrepute. In particular, on the assumption that GD was led to believe that LS would not compete in the Olympic Games, then, following those Games, GD should have acted immediately. In fact he did nothing.

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<sup>222</sup> [Witness statements\G Dolle\16. Email to GD about reference to les propos in response of 17 June 2015.pdf](#)

<sup>223</sup> [Witness statements\G Dolle\17. GD response 16 07 2015 to email about reference to les propos.pdf](#)

*Factual conclusion c.*

286. I turn to factual conclusion c., namely: No disciplinary action against was taken against LS2012 to April 2014 because VB, AM and other persons had agreed that, if LS paid money, no such action would be taken.

287. The extraordinary nature of VB's explanation as to why he took no action on the June 12 letter [71] makes it very likely that the explanation has been fabricated. GD denies he agreed that, in view of the imminence of the Olympic Games and the fact that formal charges had not yet been brought against the athlete, LS would be allowed to participate in the Olympic Games. His denial receives some support from Thomas Capdevielle's account of GD's reaction to LS running in the London Olympic marathon [88].

288. My conclusions on d. and a. provide overwhelming support for the conclusion that VB failed to take action because of payments made by LS to AM and that AM was involved in the agreement and not just acting alone.

289. Further strong support for the conclusion that VB failed to take action because of payments made by LS to AM comes from the WADA document [41]. VB, so it is stated, admitted to the Russian Deputy Sports Minister that:

- Since 2011 ARAF has been blackmailed by IAAF.
  - A system was put into place at the IAAF level under which athletes with an abnormal blood passport profile would be allowed to keep competing at high level in exchange of cash payments made to the IAAF.
- 
- In Russia, this would concern at least six athletes identified as follows:
    - o Liliya Shobukhova
    - o Valeriy Borchin
    - o Olga Kaniskina
    - o Sergey Kirdyabkin
    - o Yevgeniya Zolotova
    - o Vladimir Kanayakin
  - For these six athletes, despite abnormal profiles having been identified for each by IAAF, no result management or follow up took place by IAAF.
  - Since 2011 ARAF has been blackmailed by IAAF.
  - A system was put into place at the IAAF level under which athletes with an abnormal blood passport profile would be allowed to keep competing at high level in exchange of cash payments made to the IAAF.

- According to Mr. Balakhnichev the system was introduced and orchestrated by the son of the IAAF President and his lawyer, Mr. Habib Cisse, with the help of some people within the IAAF anti-doping department.
- The system was in place not only in Russia, but, potentially, in other countries such as Morocco and Turkey.
- The money was apparently paid by the athletes' agents to ARAF and then given to IAAF.

290. VB denies ever saying this [43]. Given that the account is not first hand from VB, the document must be approached with caution. The document refers to other athletes who, VB is allegedly saying, had no action taken against them and that is true in so far as most of them are concerned [20], [42], [64] and [121]. However, there is no evidence available to me that cash payments were made by them.

291. I am satisfied that there is a realistic prospect that the Ethics Commission will find that no disciplinary action against was taken against LS because VB, AM and other persons had agreed that, if LS paid money, no such action would be taken.

292. I turn to the other persons involved in the scheme. I have already concluded there is not a realistic prospect that the Ethics Commission will find that that GD was party to an agreement not to take disciplinary action. Although in the WADA document VB is saying that help was given by other persons within the IAAF anti-doping department, I have seen no evidence implicating anyone other than GD, who says that he was the only person within the IAAF to have contact with VB on the LS matter [75].

293. According to the WADA document, PMD and HC were involved in the scheme and I turn to them now.

294. In so far as PMD is concerned, I have already said that I am satisfied that there is a realistic prospect that the Ethics Commission will find that PMD was knowingly involved in the transfer of the €300,000 in 2014 [250]. It would seem inconceivable that PMD became involved only at the transfer stage in 2014. His involvement in the transfer and his role according to the account given by VB said to the Deputy Sports Minister satisfy me that that there is a realistic prospect that the Ethics Commission will find that PMD was party to an agreement that, if LS paid money, no disciplinary action would be taken.

295. According to LS and IS AM called them several times, prior to the second payment, to change the date of the payment “as an IAAF representative was due to arrive in Moscow, and Melnikov was waiting to be informed of his exact date of arrival” [94]. I have made enquiries to ascertain whether PMD travelled to Moscow at this time and have not received the details [99].

296. I turn to HC. I have not written to HC and he is not a person under investigation. I shall merely identify the evidence which could be said to implicate him.

297. HC had the necessary information and opportunity to be party to an agreement not to take action against LS [13-23, 26-32]. HC was sent the notification letter of May 10 2012 which was not delivered [59-65]. He hand-delivered the 12 June 2012 letter to VB [66] and probably hand-delivered the December 3 2012 letter [106] and [116]. The demand to LS for the second payment described by LS and IS was made shortly after the receipt of the June 12 letter [89]. In March 2014 HC was aware that LS would be suspended in a matter of days [129].

298. HC’s role in the LS matter was described as “unusual and inappropriate” by Thomas Capdevielle and according to him and to Huw Roberts HC had never previously been involved in any discussions about Russian ABP cases [21]. GD appears to be saying that HC was not involved in the management of the abnormal blood profile result nor in the initial disciplinary processes [23] and yet HC was involved in both.

299. According to AB, HC was involved in the meeting of December 12 2012 [112], which could be described as suspicious.

300. According to the WADA document, VB told the Russian Deputy Sports Minister that the system that would allow Russian athletes with an abnormal blood profile to continue competing in exchange for cash payments was introduced and orchestrated by PMD and HC [42]. VB denies saying this [43] and PMD denies any such system [45].

301. VB states that, following the June 12 letter, he discussed the participation of LS in the Olympic Games with GD and HC “on behalf of the IAAF” [71]. GD denies any such discussions with VB [76-77].

302. According to LS and IS, AM said that the first payment of €150,000 was given to a lawyer [94, paragraph 31]. According to LS and IS, AM said that he wanted the final €150,000 by no later than 17 July because the lawyer was to come to Moscow on that date [94, paragraph 34]. According to LS and IS, on 18 June 2012, at the time of the second payment AM said that he was going to meet with the lawyer and VB in a hotel regarding this matter [94, paragraph 38] HC went to Moscow on 18 July 2012 and was there, at IAAF expense, until 21 July and there is no reason to believe that IS and LS would have known that HC was coming to Moscow at that time apart from being told so by AM [98]. AM denies these conversations.

## **Valentin Balakhnichev**

303. In the light of factual conclusions a. to e. and given Valentin Balakhnichev's position during the relevant time as President of ARAF and Treasurer of the IAAF, I recommend that the case concerning him should proceed to adjudication for the following violations:

1. Breaches of Articles C7<sup>224</sup> and H17<sup>225</sup> read together with C4<sup>226</sup> of the Code of Ethics in force during the period from 2003 to 30 April 2012 and committed during that period in respect of the following:
  - a. his participation in an agreement with Alexei Melnikov, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money;
  - b. his failure to report to the IAAF that Lilya Shobukhova had paid money to Alexei Melnikov to enable her to compete.
2. Breaches of Articles C8<sup>227</sup> and H18<sup>228</sup> read together with C4<sup>229</sup> of the Code of Ethics in force during the period 1 May 2012 until 8 August 2013 and committed during that period in respect of the following:
  - a. his decision that the various actions required of him and ARAF in the letters of 12 June 2012, 3 December 2012 and 15 February 2013 would not be carried out;
  - b. his failure to take the required measures to ensure that any necessary disciplinary procedures be instituted promptly against Lilya Shobukhova

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<sup>224</sup> Article C7 provides: "All persons subject to this Code shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."

<sup>225</sup> Article H17 provides: "It is the duty of all persons under this Code to see to it that IAAF Rules and the present Code are applied."

<sup>226</sup> Article C4 provides: "Fair play is the basic guiding principle in the sport of Athletics."

<sup>227</sup> Article C8 provides: "All IAAF Officials shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute."

<sup>228</sup> Article H18 provides: "It is the duty of all persons under this Code of Ethics to see to it that IAAF Rules and this Code of Ethics are applied."

<sup>229</sup> Article C4 provides that "Fair play is the guiding principle in the sport of Athletics".

in the light of the letter of 12 June 2012 and of the accompanying documents;

- c. his failure to take the necessary steps to prevent Lilya Shobukhova from competing in the 2012 London Olympic Marathon on 5 August 2012 and in the 2012 Chicago Marathon on 7 October 2012;
  - d. his participation in an agreement with Alexei Melnikov, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money;
  - e. his failure to report to the IAAF that Lilya Shobukhova had paid money to Alexei Melnikov to enable her to compete.
3. Breaches of Articles C1(11),<sup>230</sup> (12)<sup>231</sup> and (14)<sup>232</sup> and D1(24)<sup>233</sup> of the Code of Ethics which was in force from 1 January 2014 to 30 April 2015 and committed during that period in respect of the following:
- a. his failure to report to the IAAF that Lilya Shobukhova had paid money to Alexei Melnikov to enable her to compete;
  - b. knowing that payments had been made by Lilya Shobukhova to Alexei Melnikov, his involvement in an attempt to cover up what had happened. Those attempts included:
    - i. trying to obtain the silence of Lilya Shobukhova and Igor Shobukhov by the repayment to her via Singapore of €300,000 in March 2014;

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<sup>230</sup> Article C1(11) provides that: “Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.”

<sup>231</sup> Article C1(12) provides that: “Persons subject to this Code shall act with utmost integrity, honesty and responsibility in fulfilling their respective roles in the sport of Athletics.”

<sup>232</sup> Article C1 (14) provides that: “Persons subject to the Code shall not ... engage in ... corrupt conduct in accordance with the Rules against Betting, Manipulation of Results and Corruption (Appendix 2). Rule 10(b) of the Rules provides that the following is a violation under the Rules: “Knowingly ... covering up ... any acts ... of the type described in these Rules”, which, under Rule 7, includes Bribery as therein described.

<sup>233</sup> Article D1(24) provides that: “IAAF Officials shall use due care and diligence in fulfilling their roles for and on behalf of the IAAF.”

- ii. trying to persuade her to sign an acceptance of sanction and then being involved in, or knowing about, the production of a forged signed acceptance of sanction;
- iii. giving her no notice of the April 9 2014 ARAF Anti-Doping Commission hearing.

304. I have not suggested violations of the Code in force from 9 August 2013 to 31 December 2013 for any of those persons whom I have been asked to investigate because to do so would add nothing and merely overly complicate matters.

## Alexei Melnikov

305. The Code in force from 2003 until 30 April 2012 does not apply to Alexei Melnikov but the later Codes do. For the purposes of the later Codes, as a coach, he is a “Participant”. See the definition of “Participants” under the heading “Application” in the Code that was in force from 1 May 2012 to 8 August 2013 and the definition of “Participants” in Part A of the Code which came into force on 1 January 2014.

306. In the light of factual conclusions a. to e. and given Alexei Melnikov’s position as a Participant, I recommend that the case concerning him should proceed to adjudication for the following violations:

1. Breaches of Articles C6 read with C4<sup>234</sup> of the Code in force from May 2012 to 8 August 2013 together with Rule 9(7) of the Rules against Betting and other Anti-Corruption Violations<sup>235</sup> and Article H18<sup>236</sup> of the Code committed during that period in respect of the following:
  - a. taking from Lilya Shobukhova the equivalent of €300,000 to enable her to compete notwithstanding her atypical Athletic Biological Passport profile, which taking would constitute:
    - i. a corrupt practice;
    - ii. the acceptance of a bribe to influence improperly the result, progress, outcome, conduct or any other aspect of the London Olympics Marathon 2012 and the Chicago marathon 2012;
  - b. his participation in an agreement with Valentin Balachnichev, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money.

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<sup>234</sup> Article C4 provides: “Fair play is the basic guiding principle in the sport of Athletics.”

<sup>235</sup> Article C6 provides that “corrupt practices relating to the sport of Athletics by ... Participants, including improperly influencing the outcomes and results of an event or competition are prohibited” and “in particular ... corrupt practices by Participants under Rule 9 of the IAAF Competition Rules are prohibited.” Rule 9.7 prohibits bribery, which is defined as: “Accepting ... any bribe ... to influence improperly the result, progress, outcome, conduct or any other aspect of an Event or Competition.”

<sup>236</sup> Article H18 provides: “It is the duty of all persons under this Code of Ethics to see to it that IAAF Rules and this Code of Ethics are applied.”

2. Breaches of Articles B(8),<sup>237</sup> C1(11),<sup>238</sup> (12)<sup>239</sup> and (14)<sup>240</sup> of the Code which was in force from 1 January 2014 to 30 April 2015 and committed during that period in respect of the following:

his involvement in an attempt to cover up what had happened. Those attempts included:

- i. trying to obtain the silence of Lilya Shobukhova and Igor Shobukhov by the repayment to her via Singapore of €300,000 in March 2014;
- ii. trying to persuade her to sign an acceptance of sanction and then being involved in, or knowing about, the production of a forged signed acceptance of sanction.

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<sup>237</sup> Article B(8) provides that: “Persons subject to the Code shall immediately report any breaches of the Code to the Chairperson of the IAAF Ethics Commission”.

<sup>238</sup> Article C1(11) provides that: “Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the IAAF, or the sport of Athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.”

<sup>239</sup> Article C1(12) of the 2014 Code provides that: “Persons subject to the Code shall act with the utmost integrity, honesty and responsibility in fulfilling their respective roles in the sport of Athletics.”

<sup>240</sup> Article C(14) provides that: “Persons subject to the Code shall not … engage in … corrupt conduct in accordance with the Rules against Betting, Manipulation of Results and Corruption (Appendix 2). Rule 10(b) of the Rules provides that the following is a violation under the Rules: “Knowingly … covering up … any acts … of the type described in these Rules”, which, under Rule 7, includes Bribery as therein described.

## **Gabriel Dollé**

307. In the light of factual conclusions a. to e. and given the position of Gabriel Dollé during the relevant time as director of the medical and anti-doping department at the IAAF, I recommend that the case concerning him should proceed to adjudication for the following violation:

Breach of Articles C8<sup>241</sup> of the Code of Ethics in force during the period 1 May 2012 until 8 August 2013 in respect of his failure during that period to ensure that disciplinary procedures were instituted or disciplinary measures taken against Lilya Shobukhova in the light of the written opinions of Professors Schumacher and Audran dated 29 November 2011 and of Professor D'Onofrio dated 7 December 2011.

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<sup>241</sup> Article C8 provides: “All IAAF Officials shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute.”

## Papa Massata Diack

308. In the light of my factual conclusions particularly in [250] to [251] and [294] and given the position of Papa Massata Diack during the relevant time as a consultant to the IAAF, I recommend that the case concerning him should proceed to adjudication for the following violations:

1. Breaches of Articles C7,<sup>242</sup> and H17<sup>243</sup> read together with C4<sup>244</sup> of the Code of Ethics in force during the period from 2003 to 30 April 2012 and committed during that period in respect of his participation in an agreement with Alexei Melnikov, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money.
2. Breaches of Articles C8<sup>245</sup> and H18<sup>246</sup> read together with C4<sup>247</sup> of the Code of Ethics in force during the period 1 May 2012 until 8 August 2013 and committed during that period in respect of his participation in an agreement with Alexe1 Melnikov, Papa Massata Diack and other persons that disciplinary action would not be taken against Lilya Shobukhova upon the payment by her of money.
3. Breaches of Articles C1(11),<sup>248</sup>(12)<sup>249</sup> and (14)<sup>250</sup> of the Code of Ethics which was in force from 1 January 2014 to 30 April 2015 and committed during that period in respect of the following:

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<sup>242</sup> Article C7 provides: “All persons subject to this Code shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute.”

<sup>243</sup> Article H17 provides: “It is the duty of all persons under this Code to see to it that IAAF Rules and the present Code are applied.”

<sup>244</sup> Article C4 provides: “Fair play is the basic guiding principle in the sport of Athletics.”

<sup>245</sup> Article C8 provides: “All IAAF Officials shall use due care and diligence in fulfilling their roles for, or on behalf of, the IAAF. Such persons must not act in a manner likely to tarnish the reputation of the IAAF or Athletics generally, nor act in a manner likely to bring the sport into disrepute.”

<sup>246</sup> Article H18 provides: “It is the duty of all persons under this Code of Ethics to see to it that IAAF Rules and this Code of Ethics are applied.”

<sup>247</sup> Article C4 provides that “Fair play is the guiding principle in the sport of Athletics”.

<sup>248</sup> Article C1(11) provides that: “Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the IAAF, or the sport of athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.”

<sup>249</sup> Article C1(12) provides that: “Persons subject to this Code shall act with utmost integrity, honesty and responsibility in fulfilling their respective roles in the sport of Athletics.”

<sup>250</sup> Article C1 (14) provides that: “Persons subject to the Code shall not ... engage in ... corrupt conduct in accordance with the Rules against Betting, Manipulation of Results and Corruption (Appendix 2). Rule 10(b) of the Rules provides that the following is a violation under the Rules: “Knowingly ... covering up ... any acts ... of the type described in these Rules”, which, under Rule 7, includes Bribery as therein described.

knowing that payments had been made by Lilya Shobukhova to Alexei Melnikov to enable her to compete, his involvement in an attempt to cover up what had happened, including trying to obtain the silence of Lilya Shobukhova and Igor Shobukhov by the repayment to her via Singapore of €300,000 in March 2014.

## **Lilya Shobukhova**

310. The 2003 Code in force until 30 April 2012 does not apply to Lilya Shobukhova but the later Codes do. For the purposes of the later Codes, as an athlete, she is a “Participant”. See the definition of “Participants” under the heading “Application” in the Code that was in force from 1 May 2012 to 8 August 2013 and the definition of “Participants” in Part A of the Code which came into force on 1 January 2014.

311. It follows that, at the time of the first payment in January 2012, she was not subject to the IAAF Code. Whilst she was subject to the Codes from 1 May 2012, I do not recommend that the case against her should proceed to adjudication for the following reasons.

1. By the time of the second and third payments the reasons given by her and her husband for making the payments are set out in the statement [94]:

30. In early June 2012, Liliya received a call from Melnikov who, to our surprise, told us that the previous payment of €150,000 (\$190,000 USD) had proved insufficient to have her name removed from the List. Melnikov explained that Liliya would now not be allowed to compete at London 2012 unless she made a further payment of €300,000.

31. We asked Melnikov who the first payment had gone to, and Melnikov said that it was provided to a lawyer (the “Lawyer”) but Melnikov did not give Liliya any further information. Melnikov once again assured us that with the payment of €300,000, Liliya’s case would be considered closed and she could then compete at London 2012 and future marathons without any difficulty. Melnikov concluded the call by telling us to gather the money together and that he would call us back in a few days with instructions for the payment, which needed to be made before London 2012.

32. We were stunned; we were now certain that ARAF was trying to extort us and that the List had been fabricated all along. ARAF knew that Liliya had won a lot of competition money in 2011 – we came to the conclusion that it was trying to get more than its usual share of the 5% commission. At the same time, however, we felt we had no choice but to comply. Melnikov was responsible for selecting the team that would compete at London 2012 – he could therefore exclude Liliya if he wanted to. London 2012 was more important to Liliya than any other competition she had ever competed in. In fact, her entire marathon career had been leading up to London 2012 so we felt we had no choice but to comply with ARAF. We were stunned; we were now certain that ARAF was trying to extort us and that the List had been fabricated all along. ARAF knew that Liliya had won a lot of competition money in 2011 – we came to the conclusion that it was trying to get more than its usual share of the 5% commission. At the same time, however, we felt we had no choice but to

comply. Melnikov was responsible for selecting the team that would compete at London 2012 – he could therefore exclude Liliya if he wanted to. London 2012 was more important to Liliya than any other competition she had ever competed in. In fact, her entire marathon career had been leading up to London 2012 so we felt we had no choice but to comply with ARAF.

2. In the light of these reasons, which there is a realistic prospect that the Ethics Commission would find credible, the second and third payments were made by LS and IS as perceived victims of extortion in a system which it would be unrealistic to expect them to do other than pay or not compete.
3. In August 2014 LS and IS co-operated with WADA<sup>251</sup> and later with Hajo Seppelt.<sup>252</sup>
4. On 26 November 2014 LS agreed in writing to co-operate with my enquiry, which she has done, and with the Ethics Commission.<sup>253</sup>
5. LS may properly be described as a whistleblower who played a vital role in my enquiry and who remains in Russia with the attendant risks to her and her family.<sup>254</sup> The breadth of the detailed help that she and her husband gave is clear from my Report.
6. LS has already been suspended for two years with the associated consequences.<sup>255</sup> As I understand, a compromise has been reached in respect of the IAAF appeal to the CAS seeking a four year ban. I do not know the terms of that compromise and whether it includes a longer ban.

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<sup>251</sup> [Exhibits\Ex 7 08-11-2014 WADA LS Debriefing Report.pdf](#)

<sup>252</sup> [Exhibits\Ex 6. ARD Full Transcript.docx](#)

<sup>253</sup> [Witness statements\Lilya and Igor Shob\LS agrees to cooperate 17 11 2014.pdf](#)

<sup>254</sup> See for example [Exhibits\Ex 6. ARD Full Transcript.docx](#)

<sup>255</sup> [Witness statements\V Balakhnichev\5. Attachment to response 17 07 2014 - email from Dolle to Araf 29 04 2014.pdf](#)