



Australian Government

Australian Sports  
Anti-Doping Authority

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Mr Andrew Dillon  
General Counsel  
Australian Football League

By email: [andrew.dillon@afl.com.au](mailto:andrew.dillon@afl.com.au)

Dear Mr Dillon,

This letter follows on from my email to you of 14 August 2013. As I mentioned in that email, ASADA has received correspondence from the solicitors for Mr Hird regarding their client's charge sheet and supporting material (described in the Ashurst letter as the "Statement of Grounds").

Ashurst asserts that the supporting material that the AFL has attached to their client's charge sheet refers to "evidence and findings" contained in the ASADA Interim Report. The Ashurst letter also asserts that the Statement of Grounds "reproduces evidence" contained in the ASADA interim report.

While ASADA is not presently in a position to assess the veracity of the assertions in the Ashurst correspondence, given that correspondence, it is worth ASADA restating the grounds on which the Interim Report was provided to the AFL.

ASADA provided its Interim Report to the AFL on 2 August 2013 under cover of a letter which stated (inter alia):

**Basis on which this interim report is being provided**

Although ASADA's investigation of possible anti-doping rule violations is continuing, I am able to disclose information to the Australian Football League (AFL) under Article 4.7 of the AFL Anti-Doping Code and clause 4.21 of the National Anti-Doping (NAD) Scheme (Schedule 1 to the *Australian Sports Anti-Doping Authority Regulation 2006*).

Under Article 4.7 of the AFL Anti-Doping Code, ASADA has an obligation to report to the AFL on the exercise of its anti-doping functions, including its investigative functions.

The interim report contains information that is "NAD scheme personal information" within the meaning of the *Australian Sports Anti-Doping Authority Act 2006*, and that is therefore subject to section 71 of that Act.

This information will general also be information that does not arise out of any entry on the Register maintained under the NAD Scheme and relates to persons in connection with a possible anti-doping rule violation by athletes and support persons, and that is therefore covered by clause 4.21 of the NAD Scheme. Some of the information was collected by the AFL or has already been disclosed to the AFL.

To the extent that the interim report contains NAD Scheme personal information that

the AFL did not collect and has not already been disclosed to the AFL, it cannot be disclosed to the AFL except for the purposes of the NAD scheme (section 71(1), (2)(b)). Disclosure of information under clause 4.21 of the NAD Scheme is disclosure for the NAD Scheme and falls within the exception of the prohibition on disclosure in section 71(2)(b).

The relevant information can be disclosed to the AFL under clause 4.21 of the NAD Scheme for the purposes of, or in connection with, the administration of the NAD Scheme. The NAD Scheme would prevent the relevant information (the interim report) being made public.

I am providing the AFL with the interim report in connection with my investigation under the NAD Scheme, noting that the interim report is the culmination of our joint investigation to date and the starting point for further investigation.

A copy of this letter is attached.

Further versions of ASADA's Interim report (with alterations in redactions) were provided to the AFL on 7, 8 and 12 August 2013. On each occasion the covering letter accompanying provision of the Interim Report specifically confirmed that the Interim Report had been provided to the AFL on the same basis as outlined in ASADA's letter of 2 August 2013. I note the AFL has not sought to take issue with ASADA about the basis on which the Interim Report has been provided to it.

In ASADA's view, there is a distinction between providing the Interim Report to Essendon to get its comments for the purpose of the ongoing investigation into possible anti-doping rule violations and providing it as a basis for bringing disciplinary proceedings against Essendon and its personnel for breaching the AFL Rules.

ASADA is concerned about the suggestion in the Ashurst letter that the AFL has, and proposes, to use "evidence and findings" contained in the Interim Report in its Statement of Grounds and the AFL's disciplinary hearing of the charges. ASADA is concerned that such evidence and findings from the Interim Report may include NAD Scheme personal information that the AFL did not collect and has not already been disclosed to the AFL, for the purpose of initiating and prosecuting charges under the AFL Rules. Such use would not be consistent with the purpose for which ASADA expressly provided the Interim Report to the AFL and may not be consistent with the National Privacy Principles.

ASADA would object to the use by the AFL for its internal disciplinary purposes, the evaluations, opinions and conclusions expressed by ASADA's investigators contained in the interim report. Obviously, ASADA does not object to the AFL using material which the AFL itself has sourced such as the Deloitte material.

My email to you of yesterday also requested that you provide ASADA with a copy of the Statement of Grounds from the AFL so that we were in a position to respond to the Ashurst letter. In response, you stated that you would need to obtain legal advice on the question of whether this material could be provided to ASADA. I now request that you expedite this request to enable ASADA to assess the veracity of the Ashurst assertions.

Furthermore, I seek your written confirmation by 4.00pm 16 August 2013, that:

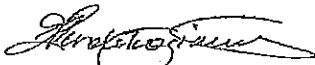
- (a) the AFL has accepted and used the Interim Report and the information in it solely

- on the basis set out in ASADA's letter dated 2 August 2013 (extracted above); and
- (b) the AFL has not used, and will not use, personal information contained in the Interim Report, which may include NAD Scheme personal information that the AFL did not collect and has not already been disclosed to the AFL, for the purpose of initiating and prosecuting charges under the AFL Rules.

If there is a difficulty about meeting this time frame could you please let us know the reason for this and when we can expect to have a substantive response.

I look forward to your prompt response. Please contact me if you have any queries.

Yours sincerely



Elen Perdikiogiannis  
General Manager Anti-Doping Programs and Legal Services