SR/312/2025

IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF WORLD ATHLETICS

Before:

Mr Dennis Koolaard (Chair)
Ms Erika Riedl
Dr. David Sharpe KC

BETWEEN:

World Athletics **Anti-Doping Organisation**

and

Mr Fredrick Kerley **Athlete**

DECISION OF THE DISCIPLINARY AND APPEALS TRIBUNAL

I. INTRODUCTION

1. World Athletics ("**WA**") is the international federation governing the sport of Athletics worldwide, having its registered seat in Monaco. In these proceedings, WA is represented by the Athletics Integrity Unit (the "**AIU**") as per Rule 1.2.2 of the 2024 World Athletics

Anti-Doping Rules ("**ADR**")[1]. Throughout these proceedings, the AIU was represented by Ms Louise Reilly SC, Mr David Baker, Mr Nicolas Zbinden and Dr. Christopher Nseka of Kellerhals Carrard, Lausanne, Switzerland, and Ms Annalisa Cherubino, Case Manager of the AIU.

2. Mr Fred Kerley (the "**Athlete**") is a 30-year-old track Athlete from Taylor, Texas, United States, who specializes in the sprint events and has competed at the elite level since approximately 2017. In the 100m sprint, the Athlete was, *inter alia*, World Champion in 2022, silver medallist at the 2021 Tokyo Olympic Games and bronze medallist at the 2024 Paris Olympic Games. Throughout these proceedings, the Athlete was represented by Mr Howard L. Jacobs and Ms Katlin N. Freeman of the Law Offices of Howard L. Jacobs, Westlake Village, California, United States.

3. The AIU and the Athlete are hereinafter jointly referred to as the "**Parties**".

4. These proceedings concern a charge filed by WA against the Athlete for an alleged Anti-Doping Rule Violation ("**ADRV**") of Rule 2.4 ADR (entitled "*Whereabouts Failures by an Athlete in a Registered Testing Pool*") for a combination of a total of three Missed Tests and/or Filing Failures ("**Whereabouts Failure(s)**") within a 12-month period, on 11 May 2024, 13 June 2024 and 6 and 7 December 2024. The AIU, *inter alia*, seeks the imposition of a two-year period of Ineligibility on the Athlete.

5. The Athlete denies that he has committed an ADRV. While the Athlete does not dispute the Whereabouts Failure on 13 June 2024, he does dispute the Whereabouts Failures on 11 May 2024, and on 6 and 7 December 2024. As to the Whereabouts Failure on 11 May 2024, the Athlete argues that he properly updated his Whereabouts but that such update was not recorded and that there was therefore no negligence on his part. As to the

[1] While pursuant to the principle of *tempus regit actum*, the 2025 edition of the ADR is applicable to the procedural aspects of this case, the Tribunal consistently refers to the 2024 edition given that the 2024 and 2025 editions do not materially differ on the aspects relevant to this case.

Whereabouts Failures on 6 and 7 December 2024, the Athlete argues that the Doping Control Officer (the "**DCO**") did not do what was reasonable in the circumstances to collect a Sample from him, and alternatively, because there was no negligence on his part. Subsidiarily, in case the Tribunal would find that an ADRV has been proven, the Athlete submits that the period of Ineligibility to be imposed is one year.

II. FACTUAL BACKGROUND

A. The Alleged Whereabouts Failure on 11 May 2024

6. The Whereabouts information provided by the Athlete indicated that he would be at his home address in Miami, Florida, United States (the "**Miami Address**") during the 60-minute time slot chosen by the Athlete between 6:16 and 7:16 AM on 11 May 2024.

7. On 11 May 2024, during the 60-minute time slot, a DCO arrived at the Miami Address and reported to have been unable to locate the Athlete. When the DCO contacted the Athlete by telephone, the Athlete texted back that he was in Jamaica. The specific facts and circumstances surrounding this alleged Whereabouts Failure are contentious and are addressed in the merits section of the present decision below.

8. On 13 May 2024, the AIU requested an explanation from the Athlete about an apparent Whereabouts Failure which occurred on 11 May 2024. No explanation was received from the Athlete within the deadline granted.

9. On 11 June 2024, the AIU confirmed the Whereabouts Failure on 11 May 2024 against the Athlete.

10. Despite being granted the right to request an administrative review of the Whereabouts Failure, the Athlete filed no such request, as a consequence of which the AIU recorded a first Whereabouts Failure against the Athlete.

B. The Alleged Whereabouts Failure on 13 June 2024

11. The Whereabouts information provided by the Athlete indicated that he would be at the *Cortina Hotel* in Munich, Germany (the "**Munich Address**") during the 60-minute time slot chosen by the Athlete between 6:16 and 7:16 AM on 13 June 2024.

12. On 13 June 2024, during the 60-minute time slot, a DCO arrived at the Munich Address and reported to have been unable to locate the Athlete.

13. On 17 June 2024, the AIU requested an explanation from the Athlete about an apparent Whereabouts Failure which occurred on 13 June 2024.

14. On 1 July 2024, the Athlete submitted a response to the AIU, providing explanations for the alleged Whereabouts Failure on 13 June 2024, but also for the earlier Whereabouts Failure on 11 May 2024:

> "*On May 11, I was in Jamaica competing at the Jamaica International Invitational event. My presence there was widely publicised. I posted about in* [sic] *several times on my own social media. I am 100% sure that I updated my whereabouts for that event. There is no reason why I would not update it. However, as you have seen in the subsequent communications, there were/are technical problems with the Athlete Connect app and sometimes the updates do not register. I was unaware there was an issue until I got the email from you as I thought I had updated my whereabouts correctly. We have been speaking to USADA and USTAF about the issue. Are you able to see that I logged into the system and updated my whereabouts from that week? Otherwise, it is difficult for me to prove that I updated it correctly. It would be appreciated if you could investigate this further.*
>
> *On June 13, I was in Munich at the* [Munich Address]*. I was in Munich getting treatment on my hamstring. My whereabouts was correct. I was scheduled to fly back to LA that day departing at 12:20pm. I left the hotel around 8:30am. The only time I could train was early that morning. I woke up early and went outside the hotel to do a shakeout and stretching. I was at the hotel but not in my room. I did not see anyone come to test me.*"

15. On 19 July 2024, the AIU confirmed the Whereabouts Failure on 13 June 2024 against the Athlete.

16. Despite being granted the right to request an administrative review of the Whereabouts Failure, the Athlete filed no such request, as a consequence of which the AIU recorded a second Whereabouts Failure against the Athlete.

C. The Alleged Whereabouts Failures on 6 and 7 December 2024

17. The Whereabouts information provided by the Athlete indicated that he would be at an apartment in [redacted], [redacted] (the "[redacted] **Address**") during the 60-minute time slot chosen by the Athlete between 6:15 and 7:15 AM on both 6 and 7 December 2024.

18. On 6 and 7 December 2024, during the 60-minute time slots, the DCO arrived at the [redacted] Address and reported to have been unable to locate the Athlete. The specific facts and circumstances surrounding these alleged Whereabouts Failures are contentious and are addressed in the merits section of the present decision below.

19. On 27 December 2024, the AIU requested an explanation from the Athlete about an apparent Whereabouts Failures which occurred on 6 and 7 December 2024.

20. On 10 January 2025, following a request of the Athlete, the AIU provided the Athlete with the 7 December 2024 Unsuccessful Attempt Report ("**UAR**").

21. On 23 January 2025, the Athlete submitted a response to the AIU, providing explanations for the alleged Whereabouts Failures on 6 and 7 December 2024.

22. On 11 July 2025, following an investigation conducted by the AIU into the explanations provided by the Athlete, the AIU confirmed the Whereabouts Failures on 6 and 7 December 2024 against the Athlete.

23. On 24 July 2025, the Athlete filed a request for an administrative review of the Whereabouts Failures on 6 and 7 December 2024.

24. On 28 July 2025, the AIU informed the Athlete that it had rejected his request for an administrative review. On this basis, the AIU recorded a third Whereabouts Failure against the Athlete, issued a Notice of Allegation of an ADRV under Rule 2.4 ADR and invited the Athlete to provide a detailed written explanation and any submission setting out why a Provisional Suspension should not be imposed.

25. No explanation was received from the Athlete within the deadline granted.

III. PROCEDURE BEFORE THE DISCPLINARY AND APPEALS TRIBUNAL

26. On 12 August 2025, the AIU issued a Notice of Charge (the "**Notice of Charge**") whereby the Athlete was provisionally suspended with immediate effect. The Notice of Charge further provided, *inter alia*, as follows:

> "*Pursuant to the foregoing, you are hereby charged with committing the following Anti-Doping Rule Violation (the "Charge"):*
>
> *2.1.1 Three Whereabouts Failures within the twelve-month period beginning on 11 May 2024, specifically (i) a Missed Test and/or a Filing Failure on 11 May 2024, (ii) a Missed Test and/or a Filing Failure on 13 July* [sic] *2024; and (iii) a Missed Test and/or a Filing Failure on 6 December 2024 or, in the alternative, a Missed Test and/or a Filing Failure on 7 December 2024.*"

27. On 19 September 2025, the appointment of Mr Dennis Koolaard as Chair of the Tribunal was confirmed.

28. On 7 October 2025, a preliminary meeting between the Chair and the Parties was scheduled to be held, which was cancelled last minute in view of an agreement between the Parties on the procedural directions (the "**Procedural Directions**") to be issued which were also deemed acceptable by the Chair.

29. On 31 October 2025, in accordance with the Procedural Directions, the AIU filed its Brief.

30. On 10 December 2025, following a request by the Athlete to vary the Procedural Directions, to which the AIU agreed, the Athlete filed his Brief.

31. On 9 January 2026, in accordance with the varied Procedural Directions, the AIU filed its Reply Brief.

32. On 12 January 2026, the appointment of Ms Erika Riedl and Dr. David Sharpe KC was confirmed to hear the matter alongside the Chair (the "**Tribunal**"). No objections were raised by the Parties with respect to the appointment or composition of the Tribunal.

33. On 29 January 2026, a hearing took place at the International Dispute Resolution Centre in London, United Kingdom. Besides the members of the Tribunal and Ms Kylie Brackenridge (virtually), Ms Roxana Weich and Mr John Devitt of the Disciplinary and Appeals Tribunal Secretariat and Mr Federico Di Marino (virtually) and Ms Suzanne Abad (virtually) as interpreters, the following persons attended the hearing:

On behalf of World Athletics

- Ms Louise Reilly SC, Counsel;
- Mr David Baker, Counsel;
- Mr Nicolas Zbinden, Counsel (virtually);
- Ms Annalisa Cherubino, AIU Case Manager.

On behalf of the Athlete

- Mr Fred Kerley, the Athlete (virtually);
- Mr Howard L. Jacobs, Counsel;
- Ms Katlin N. Freeman, Counsel (virtually).

Witnesses

- [redacted], witness called by World Athletics;
- [redacted], witness called by the Athlete (virtually);

- [redacted], witness called by World Athletics (virtually);
- [redacted], witness called by World Athletics (virtually);
- The Athlete (virtually);
- [redacted], witness called by the Athlete (virtually).

34. At the outset of the hearing, both Parties confirmed that they had no objections to the constitution and the composition of the Tribunal or to the fact that Dr. Sharpe KC attended the hearing virtually.

35. Both Parties indicated that they had sought to adduce further documentary evidence on file and that the counterparty had not objected thereto, save for the AIU's reliance on an alleged further Whereabouts Failure of the Athlete on 17 November 2025, to which the Athlete objected.

36. After having heard from both Parties in this respect, the Tribunal informed the Parties during the hearing that such document was admitted on file, given that this alleged further Whereabouts Failure was confirmed to the Athlete on 23 January 2026, i.e., after the filing of the AIU's Reply Brief, and could therefore not have been submitted before, but that such decision of the Tribunal was without prejudice to the relevance thereof.

37. No further preliminary, procedural or evidentiary issues were raised.

38. Both Parties had the opportunity to present their cases, to submit their arguments and to answer the questions posed by the Tribunal. The witnesses were invited to tell the truth and both Parties and the Tribunal had the opportunity to examine and cross-examine the witnesses and the Athlete.

39. At the end of the hearing, both Parties expressly confirmed their satisfaction with the way the proceedings were conducted and that their right to be heard had been respected. No complaints, objections or reservations were raised.

IV. APPLICABLE LAW AND JURISDICTION

40. No jurisdictional issues arise in this matter.

41. It is not in dispute that the Athlete was, and is, an International-Level Athlete in the sense of Rule 1.4.4 ADR at all material times, as a consequence of which the ADR is applicable to him.

42. Pursuant to Rule 1.3 in conjunction with Rule 8.2(a) ADR, the WA Disciplinary and Appeals Tribunal has jurisdiction over all matters where ADRVs are asserted.

V. POSITION OF THE PARTIES

43. The following summaries of the Parties' positions are illustrative only and do not necessarily encompass each and every contention put forward by them. The Tribunal, however, has carefully considered all the submissions made by the Parties, even if no explicit reference is made in the summaries that follow.

A. World Athletics' Brief

44. World Athletics' position in its Brief can be summarised as follows:

The Alleged ADRV

- The requirements that must be satisfied for an Athlete to be declared to have committed a Filing Failure are set out in Annex B.2.1 of WADA's 2023 International Standard for Results Management ("**ISRM**") and the ones for a Missed Test are set out in Annex B.2.4 ISRM.
- The requirements for a Missed Test (or alternatively a Filing Failure) are met for all the three Whereabouts Failures committed by the Athlete.

- Based upon the facts as set out in the Notice of Charge and incorporated into World Athletics' Brief, and the evidence relied upon in support of those facts, the Tribunal can be comfortably satisfied that the Athlete has committed three Whereabouts Failures in a 12-month period beginning on 11 May 2024.

Consequences

- "Rule 10.3.2 ADR provides that the period of Ineligibility to be imposed for a Rule 2.4 ADRV shall be two (2) years, subject to a reduction down to a minimum of one (1) year, depending on the Athlete's degree of Fault".
- "Based upon the circumstances of the Athlete's Whereabouts Failures, the AIU invites the Tribunal to impose the mandatory period of Ineligibility of two (2) years upon the Athlete".
- "The Athlete's level of Fault is high, and thus, he is not entitled to any reduction in the otherwise applicable two-year sanction".
- "The two (2) year period of Ineligibility shall start from the date of the decision in this matter with credit for the period of Provisional Suspension served by the Athlete since 12 August 2025 in accordance with Rule 10.13.2(a) ADR".
- "In accordance with Rule 10.10 ADR, the Athlete's competitive results obtained since 6 (or alternatively 7) December 2024 (the date of the Athlete's third Whereabouts Failure) through to the commencement of the Provisional Suspension on 12 August 2025 shall be Disqualified (unless fairness requires otherwise) with all of the resulting Consequences, including forfeiture of any medals, titles, points, prize money, and prizes".

45. In its Reply Brief, World Athletics submitted the following requests for relief:

"*55.1. to rule that the Tribunal has jurisdiction to decide on the subject matter of this dispute;*

55.2. to find that the Athlete has breached Rule 2.4 of the ADR;

55.3. to impose a period of Ineligibility of two (2) years upon the Athlete for the ADRV, commencing on the date of the Tribunal's award;

55.4. to give credit for the period of Provisional Suspension imposed on the Athlete from 12 August 2025 until the date of the Tribunal's Award against the total period of Ineligibility, provided that it has been effectively served by the Athlete;

55.5. to order the disqualification of any results obtained by the Athlete between 6 December 2024 and 12 August 2025 with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money pursuant to Rule 10.10 of the ADR; and

55.6 to award World Athletics a contribution to its legal costs and expenses incurred in relation to this matter."

B. The Athlete's Brief

46. The Athlete's position in his Brief can be summarised as follows:

The Alleged Missed Test on 11 May 2024

- Pursuant to the comment to Annex B.2.4 ISRM, the Athlete's alleged 11 May 2024 Missed Test should be set aside because the DCO's inability to collect a sample from the Athlete during his 60-minute window on 11 May 2024 was not due to any negligence on his part.
- The Athlete had taken the steps within his power to make himself available for testing at the location specified in his Whereabouts filing on 11 May 2024. The Athlete properly updated his Whereabouts for 11 May 2024 to reflect his travel and competition in Jamaica, but due to ongoing technical issues with the USADA Athlete Connect app, that update was not recorded. The Athlete was not aware that the update had not been registered until he received notice of the alleged Missed Test on 13 May 2024. The Athlete complied with his Whereabouts Requirements for the day in question.
- USADA was alerted to the Athlete's ongoing technical issues when he and his manager [redacted] requested that an investigation into the problem be

conducted. Though USADA acknowledged to [redacted] that there was an issue with the USADA Athlete Connect app, the 11 May 2024 Missed Test was confirmed and USADA has since inexplicably denied to the AIU that the Athlete had any issue whatsoever despite contemporaneous documentation to the contrary.

The Alleged Missed Test on 6 December 2024

- The Athlete's alleged 6 December 2024 Missed Test should be set aside, because the DCO did not do what was reasonable in the circumstances to collect a sample from the Athlete during his 60-minute window.
- The Athlete visited his friend, [redacted], in Los Angeles in early December, staying at [redacted] Address the week of 2 December 2024. On 6 December 2024, the Athlete was at the [redacted] Address during the entirety of his 60-minute window. [redacted] was also present in the apartment between 6:15 and 6:45 AM.
- In the UAR for 6 December 2024, while the DCO indicates that he "*managed to enter the building when maintenance staff came in,*" he provides absolutely no detail whatsoever as to *when* he entered the building. The DCO also indicates that he "*knocked on the door and rang the doorbell over 10 times,*" but failed to offer any clarity as to what time each attempt was made.
- It is absolutely clear that the DCO was not attempting to locate the Athlete for the entirety of the 60-minute window, and that none of these alleged knocks on the door or ringing of the doorbell could have occurred before 6:45 AM, when [redacted] the friend with whom the Athlete temporarily stayed at the apartment, departed the apartment.
- Alternatively, it is submitted that the DCO's inability to collect a Sample from the Athlete during his 60-minute window on 6 December 2024 was not due to any negligence on his part.

The Alleged Missed Test on 7 December 2024

- The Athlete's alleged 7 December 2024 Missed Test should be set aside, because the DCO did not do what was reasonable in the circumstances to collect a sample from the Athlete during his 60-minute window.
- As was the case on 6 December 2024, the Athlete was at the [redacted] Address during the entirety of his 60-minute window on 7 December 2024. The Athlete was awake and alert in the bedroom of the apartment for the entirety of his 60-minute window, yet he did not hear a single knock on the door on the morning of 7 December between 6:15 and 7:15 AM. [redacted] was likewise present in the [redacted] Address on the morning of 7 December between approximately 6:15 and approximately 7:00 AM.
- The DCO's call log indicates that he made four phone calls to the Athlete of incredibly brief duration: 2 seconds (7:14 AM); 9 seconds (7:12 AM); 6 seconds (7:10 AM); and 18 seconds (7:07 AM), strongly suggesting that on some or all of these call attempts, the DCO abbreviated these calls or hung up before reaching the Athlete's voicemail.
- The UAR indicates (under "*Attempt Information*") that the DCO knocked on the door "*10*" times (which is identical to the 6 December 2024 UAR), but does not indicate what time each (or any) attempt was made, and does not reference any attempt at all to knock on the door within the "*Additional Comments*" section of the UAR. Given that the DCO's first call to the Athlete on 7 December was at 7:07 AM, if the DCO knocked on the Athlete's door 10 times then he did so all in less than seven minutes between 7:00 and 7:07 AM. It is submitted that the timeline detailed by the DCO is not reliable.
- Given the full timeline of events on 7 December 2024, it is difficult to understand how [redacted] and the DCO could have missed one another, if the DCO's UAR is accurate.

- As was the case for the 6 December 2024 test attempt, here, it is clear that the DCO was not attempting to locate the Athlete for the entirety of the 60-minute window on 7 December 2024.
- Alternatively, it is submitted that the DCO's inability to collect a sample from the Athlete during his 60-minute window on 7 December 2024 was not due to any negligence on his part.

Consequences

- Should the Tribunal agree that the requirements of Annex B.2.4 ISRM have not been met for the 11 May 2024, 6 and/or 7 December 2024 test attempts and/or that the requirements of Rule 4.8.8.6 of WADA's 2023 International Standard for Testing and Investigations ("**ISTI**") have not been met for the test attempt, then the alleged ADRV must be set aside. Alternatively, should the Tribunal find that an ADRV has been proven, then it is submitted that the sanction – when considering the totality of the circumstances – should be reduced to 12 months.

47. In his Brief, the Athlete submitted the following requests for relief:

> "*6.1 Mr. Kerley respectfully requests that the Panel confirm that he has not committed an anti-doping rule violation.*
>
> *6.2 Alternatively, if the Panel finds that she* [sic] *has committed an anti-doping rule violation, Mr. Kerley respectfully requests that the Panel limit any sanction imposed upon him to a maximum of one year.*"

C. World Athletics' Reply Brief

48. World Athletics' position in its Reply Brief can be summarised as follows:

- "It is now clear that the Athlete does not challenge the Missed Test recorded against him in respect of the Whereabouts Failure on 13 June 2024. That being said, the Athlete's additional explanations furnished in respect of the events on 13 June 2024 serve to reinforce the high degree of negligence demonstrated by the

Athlete vis-à-vis his Whereabouts obligations and his lax attitude towards the same".

<u>The Alleged Whereabouts Failure on 11 May 2024</u>

- "Insofar as the Athlete's Brief addresses the Whereabouts Failure on 11 May 2024, the Athlete asserts that "*the AIU is unable to demonstrate that* [the Athlete] *was negligent*"" […]
- "The Athlete's submission (and his submissions as regards his alleged lack of negligence vis-à-vis the Whereabouts Failures effective on 6 and 7 December 2024) is predicated upon a flawed legal premise".
- "As regards a Missed Test, once the AIU has established to the Tribunal's comfortable satisfaction that the requirements set out in Annex B.2.4(a)-(d)"[2] are met (which is the necessary factual premise from which one begins when assessing negligence), the burden shifts. In such circumstances, the Athlete's negligence is ***<u>presumed</u>*** and it is for the Athlete to rebut such presumption (Annex B.2.4(e)). The Athlete repeatedly attempts to obfuscate the clear wording of Annex B.2.4(e). The motivation for doing so is obvious – it is plain that the Athlete cannot rebut the presumption of negligence".
- "The Athlete's factual case is equally unconvincing. The Athlete relies upon alleged "*technical issues with the USADA Athlete Connect app*" to explain that, although he attempted to update his Whereabouts filing for 11 May 2024 prior to that date, such update failed and he was unaware of such failure until he was notified of the alleged Missed Test on 13 May 2024. The Athlete's explanation does not hold water.

[2] ISRM.

- First, despite repeatedly asserting that "*USADA ultimately acknowledged that there was an issue with the Athlete connect app*" (the implicit assertion being that USADA had acknowledged that there was an issue with the USADA Athlete Connect app in the relevant period, i.e., on or about 11 May 2024), the Athlete has not produced evidence in support of such assertion.
- Second, the Athlete's explanation is contradictory, on the one hand setting out detail of how he and his Manager could see the alleged technical issues with the USADA Athlete Connect app in early June 2024, but at the same time asserting that he had no idea that the alleged update to his Whereabouts for 11 May 2024 had failed.
- Third, the Athlete's evidence as to the point at which he became aware that his alleged update had failed to register is contradicted by the documentary evidence. The evidence shows that the Athlete accessed the USADA Athlete Connect app on 11 May 2024 (during the course of his 60-minute testing slot, having been contacted by the doping control officer) and updated his Whereabouts information for 11 May 2024, from Florida to Jamaica. The Athlete therefore was aware on 11 May 2024 that his Whereabouts information for 11 May 2024 had not previously been updated. It is therefore implausible that the Athlete only became aware on 13 May 2024 of the alleged failure of his previous alleged Whereabouts update.
- Finally, the Athlete attempts to draw an entirely misguided comparison between his circumstances and those in *The Football Association v. Jake Livermore*. The Athlete's vague assertions of "*extreme personal circumstances, including family issues and legal issues*" are not only entirely different from the facts in *Livermore*, but do not, and cannot, excuse the Athlete's high degree of negligence vis-à-vis his Whereabouts obligations".

The Alleged Whereabouts Failures on 6 and 7 December 2024

- "Insofar as the Athlete's Brief addresses the Whereabouts Failures effective on 6 and 7 December 2024, the Athlete largely repeats the contents of the Athlete's letter dated 23 January 2025 (submitted during the Results Management process) and asserts that, not only did the DCO fail to do what was reasonable in the circumstances to locate the Athlete, but the Athlete was in any event not negligent".
- "As such the Athlete's arguments were largely already addressed – and rebutted – in the [AIU's] Brief. Tellingly, the Athlete has failed entirely to engage with any of the new evidence put forward with the AIU's Brief as regards the events on 6 and 7 December 2024 (e.g. the DCO's witness statement, the timestamped photographs and the DCO's WhatsApp chat with his supervisor)".
- "Nonetheless, the AIU…will set out a detailed timeline of events on both 6 and 7 December to demonstrate that: *(i)* contrary to the Athlete's assertions, the DCO did what was reasonable in the circumstances to locate the Athlete on both days; and *(ii)* the Athlete has failed to rebut the presumption that he was negligent".

Consequences

- "As regards the period of Ineligibility to be imposed, the Athlete asserts that, if the ADRV with which he is charged is established, he ought to benefit from the maximum reduction possible (a reduction of 12 months leading to a 12-month period of Ineligibility) in light of his assertion that his "*fault (if any) falls at the very lowest end of the scale*"…such assertion is, with respect, untenable. The Athlete repeatedly demonstrated what might be described, at best, as a lax approach towards his Whereabouts obligations and, at worst, as a flagrant disregard for the same".

49. In its Reply Brief, World Athletics submitted the following requests for relief:

"*113.1. to rule that the Tribunal has jurisdiction to decide on the subject matter of this dispute;*

113.2. to find that the Athlete has breached Rule 2.4 of the ADR;

113.3. to impose a period of Ineligibility of two (2) years upon the Athlete for the ADRV, commencing on the date of the Tribunal's award;

113.4. to give credit for the period of Provisional Suspension imposed on the Athlete from 12 August 2025 until the date of the Tribunal's Award against the total period of Ineligibility, provided that it has been effectively served by the Athlete;

113.5. to order the disqualification of any results obtained by the Athlete between 6 December 2024 and 12 August 2025 with all resulting consequences including the forfeiture of any titles, awards, medals, points and prize and appearance money pursuant to Rule 10.10 of the ADR; and

113.6 to award World Athletics a significant contribution to its legal costs and expenses incurred in relation to this matter."

VI. MERITS

A. Did the Athlete violate Rule 2.4 ADR?

50. Rule 2 ADR provides as follows:

> *"Doping is defined as the occurrence of one or more of the violations set out in Rules 2.1 to 2.11* […]*"*

51. Rule 2.4 ADR provides as follows:

> *"Any combination of three missed tests and/or filing failures, as defined in the International Standard for Results Management, within a 12-month period by an Athlete in a Registered Testing Pool.*"

52. The Tribunal accepts the AIU's contention that No Advance Notice Out-of-Competition Testing is a fundamental aspect of the AIU's anti-doping programme to combat the threat of doping to the integrity of Athletics. As argued by the AIU, if those that are willing to cheat are able to put themselves beyond the reach of testing agencies for several days (or even hours) they will be able to dope with impunity. It is for this reason that Athletes' Whereabouts duties must be closely monitored and strictly enforced. Where Athletes

repeatedly fail to meet their Whereabouts responsibilities, the appropriate Consequences must be imposed (regardless of whether there is evidence of doping). Otherwise, the Whereabouts system would have no teeth and no deterrent force.

53. As held by the Court of Arbitration for Sport ("**CAS***")* in *CAS 2020/A/7528 Christian Coleman v. World Athletics* ("***Coleman***"):

> "*While whereabouts requirements are onerous on athletes they are necessary in order (1) to facilitate no advance notice out-of-competition testing, and (2) to allow athletes to claim with credibility that they are subject to testing at any time so that the public can have confidence that the athletes are clean.*" (*Coleman*, paragraph 162)

54. To facilitate Out-of-Competition Testing, Athletes in the Registered Testing Pool are required pursuant to Rule 4.8.6.2 ISTI to provide complete and accurate information about their Whereabouts for every day in a forthcoming quarter, including for a defined 60-minute time slot each day where they will be available for testing during that period.

55. The Athlete does not contest the Whereabouts Failure on 13 June 2024, but he contests the alleged Whereabouts Failures on 11 May 2024 and on 6 and 7 December 2024. In this respect it is to be noted that the alleged Whereabouts Failure on 7 December 2024 is only relied upon if the alleged Whereabouts Failure on 6 December 2024 cannot be made out. Given that the Whereabouts Failure on 13 June 2024 is not contested, only if the remaining two alleged Whereabouts Failures (i.e., 11 May 2024 and either 6 or 7 December 2024) are confirmed, the Athlete committed an ADRV of Rule 2.4 ADR.

56. The Tribunal commences its analysis with the Athlete's alleged Whereabouts Failure on 11 May 2024.

1) Did the Athlete commit a Whereabouts Failure on 11 May 2024?

57. The ISRM defines a Whereabouts Failure as "*A Filing Failure or a Missed Test*". Since the AIU primarily pleads a Missed Test and only alternatively a Filing Failure, the Tribunal will

commence its analysis by assessing whether the requirements for establishing a Missed Test are satisfied.

58. A Missed Test is defined as follows in the ISRM:

> "*A failure by the Athlete to be available for Testing at the location and time specified in the 60-minute time slot identified in their Whereabouts Filing for the day in question, in accordance with Article 4.8 of the* [ISTI] *and Annex B.2 of the* [ISRM]."

59. The requirements that must be satisfied for an Athlete to be declared to have committed a Missed Test are set out in Annex B.2.4 of the ISRM:

> "***B.2.4*** *An Athlete may only be declared to have committed a Missed Test where the Results Management Authority can establish each of the following:*
>
> *a) That when the Athlete was given notice that they had been designated for inclusion in a Registered Testing Pool, they were advised that they would be liable for a Missed Test if they were unavailable for Testing during the 60-minute time slot specified in their Whereabouts Filing at the location specified for that time slot;*
>
> *b) That a DCO attempted to test the Athlete on a given day in the quarter, during the 60-minute time slot specified in the Athlete's Whereabouts Filing for that day, by visiting the location specified for that time slot;*
>
> *c) That during that specified 60-minute time slot, the DCO did what was reasonable in the circumstances (i.e., given the nature of the specified location) to try to locate the Athlete, short of giving the Athlete any advance notice of the test;*
>
> *[Comment to B.2.4(c): Due to the fact that the making of a telephone call is discretionary rather than mandatory, and is left entirely to the absolute discretion of the Sample Collection Authority, proof that a telephone call was made is not a requisite element of a Missed Test, and the lack of a telephone call does not give the Athlete a defence to the assertion of a Missed Test.]*
>
> *d) That Article B.2.3 does not apply or (if it applies) was complied with; and*
>
> *e) That the Athlete's non-availability for Testing at the specified location during the specified 60-minute time slot was at least negligent. For these purposes, the Athlete will be presumed to have been negligent upon proof of the matters set out at sub-Articles B.2.4(a) to (d). That presumption may only be rebutted by the Athlete establishing that no negligent behaviour on their part caused or contributed to their failure (i) to be available for Testing at such location during*

> *such time slot and (ii) to update their most recent Whereabouts Filing to give notice of a different location where they would instead be available for Testing during a specified 60-minute time slot on the relevant day.*"

60. Accordingly, in order for a Missed Test to be established, five elements need to be satisfied. It is not in dispute that elements a), b), c) and d) of Annex B.2.4 ISRM are satisfied with respect to the asserted Missed Test on 11 May 2024, but the Athlete submits that he was not negligent (element 'e') of Annex B.2.4 ISRM).

i. Was the Athlete negligent with respect to the asserted Missed Test on 11 May 2024?

61. While the Athlete initially argued that it was for the AIU to prove that he acted negligently with respect to the 11 May 2024 Missed Test, it was ultimately conceded that his negligence was presumed in view of the fact that elements a), b), c) and d) of Annex B.2.4 ISRM were satisfied, and that it was for him to rebut this presumption.

62. Given that the Athlete submits that he updated his Whereabouts information for 11 May 2024, but that such update was not recorded, it is the second limb of Annex B.2.4(e) ISRM that is relevant for present purposes:

> "*That presumption may only be rebutted by the Athlete establishing that no negligent behaviour on their part caused or contributed to their failure* […] *ii) to update their most recent Whereabouts Filing to give notice of a different location where they would instead be available for Testing during a specified 60-minute time slot on the relevant day.*"

63. The Athlete argues that, at some point after having received his travel itinerary for his trip to Jamaica on 30 April 2024 (the Athlete's testimony in this respect was not entirely consistent, sometimes referring to "*immediately*" and sometimes to 9 May 2024), he properly updated his Whereabouts information for 11 May 2024 to reflect his travel and competition in Jamaica, but due to ongoing technical issues with the USADA Athlete Connect app, that update was not recorded.

64. The AIU submits that there were indeed issues with the USADA Athlete Connect app, but that such issues only arose following an update published on 31 May 2024, i.e., after the Athlete's asserted Missed Test on 11 May 2024.

65. The Athlete evidenced that his manager [redacted] reported problems with the USADA Athlete Connect app to USADA by email on Saturday 1 June 2024, suggesting that the problems encountered had been experienced by the Athlete for several weeks. In such email, [redacted], *inter alia*, indicated as follows:

> "*Fred has been complaining about technical problems with updating his whereabouts for several weeks. He makes an update but it does not register on the system. We spent over one hour on the Athlete Connect website this morning and also experienced technical problems. On 10 occasions today when we submitted an update the screen went grey and then showed a spinning wheel which stayed on the screen. No updates were registered. We had to go back and start again. Please find attached the 10 screenshots showing this issue (the spinning wheel does not show on the screenshot but did show on the screen).*"

66. As confirmed by [redacted] as well as [redacted], they had a phone call on 4 June 2024 during which the issues with the USADA Athlete Connect app were discussed. Whereas [redacted] testified that he did not remember whether they also discussed issues related to the period before 31 May 2024, [redacted] testified that such issues were not discussed and that she never stated during this telephone call that there was any issue with the USADA Athlete Connect app prior to USADA publishing the update on 31 May 2024.

67. If the contention that the Athlete had been complaining about technical problems with updating his Whereabouts for "*several weeks*" in [redacted]' email of 1 June 2024 were true, this also shows that the Athlete realised that his updates were not recorded. However, the Athlete apparently did not double-check if the update to his Whereabouts information for 11 May 2024 was recorded or not, nor did he report any technical problems to USADA, as he did through [redacted] when he encountered problems on 1 June 2024.

68. The Athlete and [redacted] testified that the Athlete had informed [redacted] of the technical problems encountered by the Athlete prior to 1 June 2024 by telephone, but there is no evidence in the form of, for example, text messages or emails corroborating such contention.

69. Accordingly, there is no contemporaneous evidence on file establishing that the Athlete encountered any technical problems with the USADA Athlete Connect app between 30 April 2024 (the date he received his travel itinerary for his trip to Jamaica) and 11 May 2024.

70. The Tribunal also observes that the AIU provided evidence that the Athlete's Whereabouts for his 60-minute time slot for 11 May 2024 were updated at 6:47:18 AM Florida time, i.e., during the Athlete's chosen time slot between 6:16 AM and 7:16 AM.

71. This notwithstanding, the Athlete testified that he did not make any update to his Whereabouts on 11 May 2024 and that nobody else had access to his profile on the USADA Athlete Connect app at the time. According to [redacted]' testimony, it was only after the Athlete was notified on 13 May 2024 of the alleged Missed Test on 11 May 2024 that he and other employees at PACE Sports Management started their involvement with the Athlete's Whereabouts Filings. The Athlete initially testified that he only became aware that his Whereabouts update related to his Jamaica trip had not been recorded on 13 May 2024, when he was notified of the Whereabouts Failure. During the hearing, the Athlete however also testified that he knew a DCO showed up at his house, because he was notified there was someone at his house through the cameras that he had remote access to and because he could hear his uncle (who was staying at the Athlete's house) speaking with the DCO in real time.

72. Considering the evidence on file, the Tribunal does not consider the Athlete's initial testimony to be a plausible explanation. In fact, the Tribunal finds it more likely that the Athlete had failed to update his Whereabouts information for 11 May 2024 from the Miami

Address to Jamaica and that he realised this when a DCO showed up at his house on 11 May 2024, following which he immediately updated his Whereabouts information on the USADA Athlete Connect app.

73. Be this as it may, this has no impact on the conclusion that there is simply no contemporaneous record of any problems encountered with the USADA Athlete Connect app on or before 11 May 2024 that may establish that the Athlete was not negligent.

74. The Athlete relies on his personal circumstances in establishing that he was not negligent with reference to the ruling in *Livermore*. The Tribunal finds that the Athlete's personal circumstances could potentially be taken into account if the Athlete admitted to having failed to update his Whereabouts information or if he was not at the location where he had indicated he would be. However, on the Athlete's own case, his personal circumstances did not prevent him from accurately and timely updating his Whereabouts information between 30 April 2024 and 11 May 2024. The Athlete also submits that he was at the location where he had indicated he would be, Jamaica.

75. In such context, the Tribunal finds that the Athlete's personal circumstances cannot be said to have impacted his negligence related to the Missed Test on 11 May 2024. The mere fact that the Athlete did not file any explanation after having been notified of the Missed Test on 11 May 2024 because he was allegedly dealing with personal issues does not prejudice the Athlete, as his arguments are heard on a *de novo* basis in the present proceedings.

76. Consequently, the Tribunal finds that the Athlete did not succeed in rebutting the presumption that he was negligent with respect to the asserted Missed Test on 11 May 2024.

ii. Conclusion on the asserted Whereabouts Failure on 11 May 2024

77. Since element e) of Annex B.2.4 ISRM was also satisfied, the Tribunal finds that all five requirements to establish a Missed Test are satisfied. The Athlete therefore committed a Whereabouts Failure on 11 May 2024.

2) Did the Athlete commit a Whereabouts Failure on 6 December 2024?

78. Also, with respect to the alleged Whereabouts Failures on 6 December 2024, the AIU primarily pleads a Missed Test and only alternatively a Filing Failure. The Tribunal will therefore commence its analysis by assessing whether the requirements for establishing a Missed Test are satisfied.

79. With respect to the five aforementioned elements required to establish a Missed Test, it is not in dispute that elements a), b) and d) of Annex B.2.4 ISRM are satisfied. The Athlete however submits that (i) the DCO did not do what was reasonable in the circumstances (element c) of Annex B.2.4 ISRM); and in the alternative, that (ii) the Athlete was not negligent with respect to the asserted Missed Test (element e) of Annex B.2.4 ISRM).

80. These two issues will be addressed in turn below.

i. Did the DCO do what was reasonable in the circumstances?

1. Regulatory guidance

81. Rule 4.8.3.5(a) ISTI provides as follows:

> *"More specifically, the Athlete shall provide sufficient information to enable the DCO to find the location, to gain access to the location, and to find the Athlete at the location with no advance notice to the Athlete.* […]"

82. Rule 4.8.8.5(d) ISTI and the comment thereto provide as follows:

> "*Once the DCO has arrived at the location specified for the 60-minute time slot, if the Athlete cannot be located immediately, then the DCO should remain at that location for whatever time is left of the 60-minute time slot and during that remaining time they*

should do what is reasonable in the circumstances to try to locate the Athlete. See WADA's Guidelines for Sample Collection for guidance in determining what is reasonable in such circumstances.

[Comment to 4.8.8.5 (d): Where an Athlete has not been located despite the DCO's reasonable efforts, and there are only five (5) minutes left within the 60-minute time slot, then as a last resort the DCO may (but does not have to) telephone the Athlete (assuming they have provided their telephone number in their Whereabouts Filing) to see if they are at the specified location. If the Athlete answers the DCO's call and is available at (or in the immediate vicinity of) the location for immediate Testing (i.e., within the 60-minute time slot), then the DCO should wait for the Athlete and should collect the Sample from them as normal. However, the DCO should also make a careful note of all the circumstances, so that it can be decided if any further investigation should be conducted. In particular, the DCO should make a note of any facts suggesting that there could have been Tampering or manipulation of the Athlete's urine or blood in the time that elapsed between the phone call and the Sample collection. If the Athlete answers the DCO's call and is not at the specified location or in the immediate vicinity, and so cannot make himself/herself available for Testing within the 60-minute time slot, the DCO should file an Unsuccessful Attempt Report.]"

83. The final sentence of Rule 4.8.8.5(d) ISTI refers to WADA's 2020 Guidelines for Implementing an Effective Athlete Whereabouts Program (the "**WADA Whereabouts Guidelines**") for "*guidance in determining what is reasonable in such circumstances*".

84. The WADA Whereabouts Guidelines provide, *inter alia*, as follows:

"9.2.1 Making a Reasonable Testing Attempt

An unsuccessful attempt to test an Athlete will not amount to a Missed Test unless the ADO on whose behalf the test was attempted can demonstrate to the comfortable satisfaction of the hearing panel that (among other things) the DCO made a reasonable attempt to locate the Athlete for Testing during the 60-minute timeslot specified for the day in question in the Athlete's Whereabouts Filing.

What constitutes a reasonable attempt to locate an Athlete for Testing during the 60-minute timeslot cannot be fixed in advance, as it will necessarily depend on the particular circumstances of the case in question, and in particular on the nature of the location chosen by the Athlete for that timeslot.

The only truly universal guideline is that the DCO should use his/her common sense. He/she should ask him/herself: "Given the nature of the location specified by the Athlete, what do I need to do to ensure that if the Athlete is present, he/she will know that a DCO is here to collect a Sample from him/her?"

[…]

If the specified location is the Athlete's house or other place of residence, the DCO should ring any entry bell and knock on the door as soon as he/she arrives. If the Athlete does not answer, the DCO may telephone the Athlete to advise him/her of the attempt in the closing five minutes of the 60-minute period. Such a call is not mandatory however, nor should it be used to invite the Athlete for Testing, but rather to potentially further validate that the Athlete is not present.

Preferably, the DCO should wait somewhere close by (e.g., in his/her car) in a place where he/she can observe the (main) entrance to the residence. He/she should then knock/ring again a short time later (e.g., 15 minutes), and should keep doing so periodically until the end of the 60 minutes. At that point, he/she should try one last time at the end of the 60 minutes before leaving the location and completing an Unsuccessful Attempt Report.

[…]

Whatever the location specified, it may be appropriate for the DCO to speak to people he/she encounters during the attempt to see if they can assist in locating the Athlete. If so, the DCO should try to get the names and positions (e.g., neighbour, coach, receptionist) of the people with whom he/she speaks, for recording (along with relevant details of the conversations) on the Unsuccessful Attempt Report. The DCO should not identify the purpose of his/her visit, unless necessary for safety or security reasons.

The DCO should note any circumstances he/she observes during his/her attempt to test the Athlete that could be relevant.

For example, if the attempt is made at the Athlete's home, and no one answers the door, the DCO should note whether or not there are any lights on in the house, or if he/she notices any movement in the house. If there is a car in the driveway, the DCO might note the make/colour/license plate number, and check whether the engine hood is warm, indicating that the car has been used recently. It is up to the DCO to gather such anti-doping intelligence as may be useful to the ADO. This information should be included in the Unsuccessful Attempt Report.

[…]

The DCO should provide a detailed account in the Unsuccessful Attempt Report of exactly what he/she did during the 60-minute timeslot to try to find the Athlete. For example, if the attempt was at the Athlete's home, the DCO should note when and how many times he knocked on the door, where he/she waited in between attempts, etc). The DCO should specify exactly where he/she went, for how long, what he/she did, who he/she spoke to about where the Athlete might be (including the names of the people involved, and what was said."

2. The Tribunal's assessment

85. In light of the aforementioned regulatory framework, and the guidance set forth in the WADA Whereabouts Guidelines, the Tribunal assesses whether the AIU established that the DCO did what was reasonable in the circumstances to locate the Athlete on 6 December 2024. To satisfy this test, it is not necessarily about what the DCO could have done to locate the Athlete, but about what he should reasonably have done, and failed to do.

86. The Tribunal addresses the various issues raised in chronological order.

a. The DCO's arrival at the [redacted] Address

87. The Athlete argues that the DCO provided no information in his UAR for 6 December 2024 as to when he entered the building.

88. The DCO indicated in the UAR that he arrived at the [redacted] Address at 6:15 AM, which he confirmed in his witness statement. The DCO further provided the following information in the UAR:

> "*- Actions taken: • I reviewed the information provided by my supervisor, including the Whereabouts (WA) details from USADA. • I arrived at the address during the athlete's Testing Slot (TS) and looked for the entrance to the* [redacted] *building. • The main entrance was locked, and there was no security staff available to grant access. - Contact attempts: • I checked the building directory for apartment #420 and the athlete's name but couldn't find either registered. • I managed to enter the building when maintenance staff came in. • I went to apartment #420 and knocked on the door and rang the bell over 10 times, but there was no response or indication that the athlete was present. - Extra actions: • I reported the situation to my supervisor, who instructed me to try contacting the athlete by phone. • I called the phone number listed in the WA, but there was no answer. -Conclusion: • I took the necessary photos as evidence and left the location after the athlete's TS ended. - Result: The athlete Fred Kerley could not be located at the address provided during the TS.*"

89. The Tribunal observes that the information provided in the UAR does not specify when the DCO entered the building. However, the metadata of a picture taken by the DCO on 6 December 2024 evidences that the DCO entered the relevant apartment number in the

digital building directory at 6:38 AM. The metadata of another picture taken by the DCO on 6 December 2024 evidences that the DCO was in front of apartment number 420 inside the building at 6:48 AM. The Tribunal finds that it can be deduced from this evidence that the DCO entered the building at some point between 6:38 and 6:48 AM. This is consistent with the DCO's witness statement in which he indicated that a maintenance worker arrived at 6:38 AM and allowed him to enter the building and that he believed to have arrived in front of the Athlete's door at or around 6:45 AM.

90. While the Athlete's 60-minute time slot started at 6:15 AM, the Tribunal finds that the DCO cannot be reproached for arriving at the Athlete's door only around 6:45 AM.

91. The DCO indicated in the UAR that "[t]*he main entrance was locked, and there was no security staff available to grant access*" and that "*I checked the building directory for apartment #420 and the athlete's name but couldn't find either registered*". The Athlete had not provided any specific information in his Whereabouts information that allowed the DCO to enter the building.

92. In that sense, the Tribunal finds that the Athlete did not comply with his Whereabouts duties and it was fortunate that a maintenance worker allowed the DCO to enter the building to reach the Athlete's door. Had the DCO not been able to enter the building, this would probably primarily have been caused by the insufficient information provided by the Athlete rather than by the DCO not doing what was reasonable in the circumstances.

93. This, however, remains without consequences in the matter at hand, because the DCO eventually entered the building and arrived at the Athlete's door at around 6:45 AM.

94. Consequently, up until this moment, the Tribunal finds that nothing in the DCO's conduct fell short of what he was reasonably required to do in the circumstances.

b. The presence of [redacted]

95. It is undisputed that the Athlete stayed over at the [redacted] Address at an apartment of his friend, [redacted], in the week of 6 December 2024.

96. [redacted] testified that he woke up around 6:00 AM and left the apartment around 6:45 AM on the morning of 6 December 2024, to take the 6:58 AM bus to arrive at work at 8:26 AM.

97. As concluded above, based on the metadata of the pictures taken by the DCO, the Tribunal finds that it is proven that the DCO arrived at the Athlete's door at around 6:45 AM. In fact, almost the entire chronology of the DCO's actions in the morning of 6 December 2024 is corroborated by contemporaneous evidence such as pictures and videos. The Tribunal finds that there is no reason to doubt the general veracity of the DCO's evidence.

98. On the other hand, there is no contemporaneous evidence corroborating [redacted] testimony that he left the apartment at around 6:45 AM. The only evidence in this respect is [redacted] word.

99. Against this background, the Tribunal finds that, generally, to the extent the testimonies of the DCO and [redacted] cannot be reconciled, the testimony of the DCO prevails. However, the Tribunal finds that the two testimonies can be reconciled to a very large extent.

100. The Tribunal is prepared to accept that [redacted] took the 6:58 AM bus to arrive at work at 8:26 AM. However, considering that, on the basis of an estimation provided by Google Maps, it is a 16-minute walk from the [redacted] Address to the bus stop, it seems to have been very tight for [redacted] to only leave the apartment at 6:45 AM to be in time to catch his bus just 13 minutes later. On this basis, the Tribunal finds that [redacted] left the apartment shortly before 6:45 AM.

101. Although the timing is remarkably coincidental, the Tribunal finds that the testimonies of the DCO and [redacted] can largely coexist. Both refer to the time of approximately 6:45 AM. It may well be that [redacted] left the apartment shortly before 6:45 AM and the DCO arrived at the apartment shortly after 6:45 AM, so that they did not cross each other in front of the apartment's door.

102. [redacted] testimony that he did not hear anyone ring the doorbell or knock the door, and that he did not see anyone in front of the door, or in the hallway, when he left the apartment in the morning of 6 December 2024 is consistent with the factual evidence provided by the DCO.

103. The DCO testified that, besides the maintenance worker that allowed him entry into the building, he did not see anyone else inside the building. This is consistent with [redacted] testimony, who indicated to be "*100% sure*" that he did not see anybody in the building in the morning of 6 December 2024.

104. Insofar as the Athlete maintains that the DCO must have run into [redacted] in the morning of 6 December 2024, and that the DCO should have spoken to [redacted] in an attempt to locate the Athlete, the Tribunal finds that this argument is to be dismissed.

105. The Tribunal finds that, even if they did cross, it was not necessarily expected of the DCO to approach and speak to [redacted]. The DCO did not know [redacted] nor could he have known that he was staying in the same apartment as the Athlete. It may potentially have been expected of the DCO to approach and speak to [redacted], if he could not enter the building while waiting outside at the main entrance, and [redacted] would have exited the building through the same entrance. However, around that time, a maintenance worker allowed the DCO to access the building, and thus access to the door of the apartment, as a consequence of which the Tribunal finds that the DCO was not necessarily required to approach anyone he came across. Alternatively, [redacted] may also have left the building when the DCO was occupied taking pictures, calling the "leasing office" within the

apartment complex, or trying to find the Athlete's name in the digital building directory. Although it would have been very coincidental, they may also have crossed when taking elevators in opposite directions at the same time.

106. In *ITF v. Ms Alizé Cornet* ("***Cornet***"), where the majority of the Tribunal held that the ITF had not satisfied its burden to show that the DCO took reasonable steps to locate the Athlete during the 60-minute time slot, the following was held:

> "*What is striking is that three separate witnesses have given unchallenged evidence that during the 60 minute period they left the apartment building, each knew Ms Cornet, and each would have given access to the building to the DCO if she had approached them.* […]
>
> *The evidence of these three gentlemen emphasises that taking the step of speaking to those leaving the building is not in any sense a theoretical one. On the contrary, had* [the DCO] *approached any one of these individuals, it is likely that the problem would have been readily resolved. Indeed, if she had approached Mr Tassart he would have no doubt taken* [the DCO] *up to Ms Cornet's apartment and opened the apartment door for her, as he knew* [the DCO] *and knew about doping control.*" (*Cornet*, paras. 75-76)

107. The Tribunal finds that the factual scenario in *Cornet* is to be distinguished from the situation in the matter at hand. Indeed, in the matter at hand, both the DCO and [redacted] testified not to have seen anyone. Further, the DCO in this case was eventually able to enter the building and arrive at the Athlete's door despite insufficient information being provided by the Athlete. Under such circumstances, the Tribunal finds that the mere fact that the DCO **could** potentially have approached and spoken to another unknown individual that may have given him access to the Athlete's apartment falls short of something he **should** reasonably have done in the circumstances.

108. Consequently, also up until this moment, the Tribunal finds that nothing in the DCO's conduct fell short of what he was reasonably required to do in the circumstances.

c. Ringing the doorbell and knocking on the door

109. The DCO indicated in his witness statement that when he arrived at the Athlete's door at or around 6:45 AM he "*immediately knocked on the door and rang the doorbell*". This is not contested and the Tribunal has no reason to doubt the DCO would not have immediately knocked on the door and rang the doorbell upon his arrival to the Athlete's door.

110. The DCO indicated in the UAR that he knocked on the door/rang the bell 10 times. While the DCO testified that this was the maximum number that could be indicated in the relevant dropdown section of the automated UAR document, he also included this number in the additional comments section of the UAR, where there was no such restriction. At the hearing, the DCO testified to have knocked on the door/rang the bell at least 20 times. Although the DCO's testimony somewhat deviates from the information provided in the UAR, the Tribunal finds that the difference is not material. The relevant aspect is that the DCO continued ringing the doorbell and knocking on the door at regular intervals and there is no reason for the Tribunal to question this contention.

111. The DCO testified that he could hear the doorbell ringing from outside the apartment, whereas the Athlete testified that the doorbell did not work.

112. The Tribunal notes that the AIU provided a video of the DCO ringing the doorbell. The DCO sent this video to his supervisor by WhatsApp at 6:48 AM on 6 December 2024, i.e., during the Athlete's designated 60-minute time slot. Although it was questioned during the hearing whether the doorbell was audible in the video, the Tribunal finds that one can clearly – albeit softly – hear a bell ringing both times the DCO pushes the doorbell. This not only evidences that the DCO indeed rang the doorbell, but it also contradicts the Athlete's testimony that the doorbell did not work.

113. The DCO also sent another video to his supervisor by WhatsApp at 6:56 AM on 6 December 2024, i.e., during the Athlete's designated 60-minute time slot. In this video,

the DCO is depicted knocking on the door. While the Tribunal finds that the DCO could have knocked on the door more firmly, the way the DCO knocked on the door does not fall short of what could reasonably be expected of him.

114. Based on the above elements, the Tribunal has no doubt that the DCO rang the doorbell and knocked on the door as he was reasonably expected to do.

115. To the extent the WADA Whereabouts Guidelines provide that "*if the attempt was at the Athlete's home, the DCO should note when and how many times he knocked on the door*", the Tribunal finds that the DCO complied with the requirement of indicating how many times he knocked on the door, but that he did not indicate precisely when he did so on each occasion. The Tribunal finds that there is little added value in knowing the exact minute when each attempt to ring the doorbell/knock on the door was made, especially considering that it has been convincingly established that the DCO indeed rang the doorbell and knocked on the door during the Athlete's indicated 60-minute time slot on 6 December 2024.

116. Consequently, also up until this moment, the Tribunal finds that nothing in the DCO's conduct fell short of what he was reasonably required to do in the circumstances.

d. Calling the Athlete by telephone

117. Although not required by the WADA Whereabouts Guidelines, the DCO called the Athlete towards the end of the Athlete's designated 60-minute time slot. The DCO indicated in the UAR that he called the Athlete three times.

118. The DCO also provided a screenshot of the three attempted calls, demonstrating that he indeed called the telephone number indicated by Athlete in his Whereabouts information at 7:08 AM (11 seconds), 7:09 AM (10 seconds) and at 7:12 AM (10 seconds).

119. The DCO indicated in his witness statement that he did not hear the Athlete's mobile phone ring inside the apartment.

120. The Tribunal is satisfied that the DCO did indeed call the Athlete on three occasions. Although already established by the evidence addressed above, it is also confirmed by the fact that the Athlete later, at 7:24 AM, i.e., after the Athlete's indicated 60-minute time slot had concluded, texted the DCO the following message: "*Who the*" (which the Tribunal accepts should be interpreted as "*who is this?*").

121. The Athlete testified that he did not answer the DCO's calls because it was an unknown Mexican telephone number and he did not know anyone from Mexico. If this explanation is accepted, the Tribunal considers it somewhat odd for the Athlete to call back the same unknown Mexican number the next morning on 7 December 2024, after the DCO had again attempted to call him.

122. Regardless of the reasons the Athlete may have had to not answer the calls, the Tribunal finds that the DCO went beyond what was reasonably required of him in attempting to locate the Athlete. The Athlete was provided with an opportunity to be located that is not consistently afforded to Athletes subjected to Out-of-Competition testing.

123. Consequently, also up until this moment, the Tribunal finds that nothing in the DCO's conduct fell short of what he was reasonably required to do in the circumstances.

e. Trying to open the door of the apartment

124. The Athlete and [redacted] testified that the lock of the apartment door was covered with tape, so as to be able to enter the apartment from outside without a key, as [redacted] was about to be evicted from the [redacted] Address. Although not insisted upon by the Athlete, an implicit suggestion was made that the DCO should have tried to open the door to access the apartment and/or that he should have knocked on the door harder so that the door would have opened.

125. The Tribunal finds that it can clearly not reasonably be expected from a DCO to attempt to open the door of an apartment without permission. The knocking on the door has been addressed above already.

126. Consequently, also in this respect, the Tribunal finds that nothing in the DCO's conduct fell short of what he was reasonably required to do in the circumstances.

f. The end of the Athlete's indicated 60-minute time slot

127. The DCO indicated in his witness statement that he "*stayed in front of the door of unit 420 until 07:15 and knocked on the door and rang the doorbell one last time at the end of the Athlete's 60-minute time slot at 07:15*".

128. This is in accordance with the departure time of 7:20 AM indicated on the UAR for 6 December 2024.

129. This is also corroborated by the WhatsApp discussion between the DCO and his supervisor. At 7:15 AM on 6 December 2024, the following exchange of messages took place:

DCO:	"*Ya son 7:15*" (free translation: "*It is now 7:15*")
Supervisor:	"*Olvida*" (free translation: "*Forget it*")
DCO:	"*Que más hago?*" (free translation: "*What else do I do?*")
Supervisor:	"*Toma fotos y te vas*" (free translation: "*Take pictures and leave*")

130. In light of the DCO's testimony and the corroborating evidence provided, and in the absence of any evidence to the contrary from the Athlete besides the allegations that he did not hear anyone ring the doorbell or knock on the door, the Tribunal finds it established that the DCO remained in front of the Athlete's door and rang the doorbell and knocked on the door one last time at the end of the Athlete's indicated 60-minute time slot before leaving.

131. Consequently, also up until this moment, the Tribunal finds that nothing in the DCO's conduct fell short of what he was reasonably required to do in the circumstances.

3. Conclusion on whether the DCO did what was reasonable in the circumstances

132. Based on all the aforementioned elements, the Tribunal finds that the DCO did what was reasonable in the circumstances and that element c) of Annex B.2.4 ISRM is thereby satisfied.

ii. Was the Athlete negligent with respect to the asserted Missed Test on 6 December 2024?

133. Given that the Athlete indicated in his witness statement that he was "*awake and alert in the bedroom of the apartment for the entirety of my designated 60-minute window but did not hear a single knock on the door on the morning of 6 December between 6:15 and 7:15*", and in view of the presumption of negligence addressed *supra*, it is the first limb of Annex B.2.4(e) ISRM that is relevant for present purposes:

> "*That presumption may only be rebutted by the Athlete establishing that no negligent behaviour on their part caused or contributed to their failure (i) to be available for Testing at such location during such time slot* […]"

134. The Tribunal observes that there is no evidence provided by the Athlete to corroborate his statement that he was "*awake and alert*" during the Athlete's indicated 60-minute time slot on 6 December 2024. This could for example have been demonstrated by text messages being sent by the Athlete during this period.

135. [redacted] testified that, although he had seen the Athlete lying on the floor, he was not sure whether the Athlete was awake or asleep when he left the apartment around 6:45 AM.

136. Whether the Athlete was awake or asleep does in fact not matter much. The Athlete opted for a time slot between 6:15 and 7:15 AM on 6 December 2024, as a consequence of which he should have been present and available for an Out-of-Competition test at that time.

137. The Athlete's argument that he had "*simply no way of knowing that the DCO was present for sample collection*" is rebutted by the evidence establishing that the DCO rang the doorbell and knocked on the door. Awake or asleep, if the Athlete could not hear this, he should have been more prudent in positioning himself in the apartment in such a way so as to ensure that he could hear a knock on the door or a ring of the doorbell.

138. Pursuant to Rule 4.8.9.1 ISTI "*an Athlete in a Registered Testing Pool must specifically be present and available for Testing on any given day during the 60-minute time slot specified for that day in their Whereabouts Filing, at the location that the Athlete has specified for that time slot*".

139. The Tribunal finds that the requirement to be "*present and available*" has been interpreted convincingly in *CAS 2014/A/2 Drug Free Sport New Zealand v. Kris Gemmell* ("***Gemmell***"):

> "*Athletes that place themselves in a position whereby they cannot either hear or see a DCO who attends a specified location during the time they have nominated for testing defeat the purpose of the rules and cannot be considered to have made themselves "available". An athlete's failure to make him/herself available for testing on a no advance notice basis is not an exceptional circumstance that justifies notice being given.*"
>
> "*In all the circumstances, this Panel is satisfied that there was some excuse for the Athlete missing this test* [because the athlete had not received a phone call despite having providid [sic] his telephone number]. *Undoubtedly, had the Athlete taken more care he could have avoided missing the test. Having chosen the latest possible time for a test (10:00 pm - 11:00 pm) the Athlete was consciously running the risk that he might be asleep when a DCO arrived. Prudence, in such circumstances, would have dictated that he ensure that he was in a position to be able to hear someone knocking on the front door or that there was some system in place whereby someone else could notify him of such an occurrence. That is especially the case where, it appears, in the past, he had to be woken by others for the purposes of undergoing such testing.*" (*Gemmell*, paras. 92 and 143)

140. In the matter at hand, the Athlete received phone calls from the DCO, so that the "*excuse*" alluded to in *Gemmell* is not relevant for present purposes.

141. The Tribunal finds the considerations in *Gemmell* relevant for two reasons.

142. First, although the Athlete was free to choose the designated 60-minute time slot between 6:15 and 7:15 AM, such an early time slot obviously brought with it an increased risk that he would be asleep when a DCO would arrive for an Out-of-Competition test. This is the consequence of the Athlete's choice.

143. Second, conscious of such increased risk, the Athlete should have placed himself in a position inside the apartment where he was able to hear the doorbell or knocking on the door even if he was still asleep, which he apparently did not do. This does not reduce the Athlete's negligence.

144. As held in *Coleman*, paragraph 184, the Tribunal finds that this is all the truer considering that the Athlete was already notified of two Whereabouts Failures and should therefore have been on a high alert, knowing that a third Whereabouts Failure would result in an ADRV.

145. The Tribunal finds that, being on high alert, the Athlete should have answered the calls from an unknown number received during his designated 60-minute time slot on 6 December 2024. Not doing so was not just negligent but reckless, as the Athlete should have been aware that if a DCO would not be able to locate him (and thus exposing the Athlete to a potential third Whereabouts Failure), he could have received a call from an unknown number. This is especially true in the specific situation of the Athlete, given that a DCO had tried to call him with respect to the first Missed Test on 11 May 2024 and the second Missed Test on 13 June 2024. The Athlete also did not just miss the calls, but his evidence is that he consciously decided not to answer the calls because they were made from an unknown Mexican telephone number, and at some point even that he never answers calls from unknown telephone numbers. The Tribunal finds it very negligent of the Athlete that he consciously decided not to answer the three calls received during the 60-minute time slot (at 7:08 AM, 7:09 AM and at 7:12 AM), but to text "*who the*" (which the Tribunal accepts should be interpreted as "*who is this?*") at least 12 minutes later (at 7:24 AM), and importantly, only after the 60-minute time slot had already ended.

146. Finally, the Tribunal was frankly astonished by the Athlete's repeated testimony that even if he had heard someone ring the doorbell or knock on the door, he would not have opened the door, as he was staying in someone else's apartment. The Tribunal finds that this is a flagrant disregard of his duties under the AIU's anti-doping programme and the principles underpinning them.

147. However with respect to this last argument, the Athlete argued, based on *CAS 2023/A/9992 & 10067 World Athletics & WADA v. Ms Oluwatobiloba (Tobi) Amusan* ("***Amusan***"), that this statement of the Athlete was irrelevant given that there was no causal effect, i.e., given that the Athlete did not hear the doorbell or knocks on the door, it is irrelevant that he would not have opened the door if he had heard the doorbell or knock on the door.

148. The following is held in *Amusan*:

> "*The Panel is aware that its conclusion might appear - at least at first sight - formalistic, because in the case at hand it is clear that the Athlete would not have heard any additional knocking or ringing by the DCO after 6:39:42. However, causality is not a requirement in the context of Article B.2.4(c) of Annex B to the ISRM, which solely demands that the DCO "... during that specified 60-minute time slot... did what was reasonable in the circumstances (i.e. given the nature of the specified location) to try to locate the Athlete, short of giving the Athlete any advance notice of the test". The Panel's task is not to rewrite the rules, but to apply them (subject to the applicable rules violating higher ranking norms and principles).*" (*Amusan*, paragraph 203)

149. While the context in the matter at hand is somewhat different in comparison with *Amusan* (in the present matter the DCO did what was reasonable in the circumstances), the Tribunal acknowledges the force of the Athlete's argument and finds that it is indeed irrelevant in the context of assessing the Athlete's negligence what he might have done or might not have done had the circumstances been different. Accordingly, regardless of how astonishing the Athlete's statement may have been, the Tribunal finds that this "hypothetical negligence" of the Athlete is not to be taken into account in the present context.

150. This notwithstanding, the conclusion remains that the Tribunal finds that the Athlete did not succeed in rebutting the presumption that he was negligent with respect to the asserted Missed Test on 6 December 2024.

iii. Conclusion on the asserted Whereabouts Failure on 6 December 2024

151. Since elements c) and e) of Annex B.2.4 ISRM are also satisfied, the Tribunal finds that all five requirements to establish a Missed Test are satisfied. The Athlete therefore committed a Whereabouts Failure on 6 December 2024.

3) Conclusion on the asserted violation of Rule 2.4 ADR

152. In view of the Tribunal's conclusion that the Athlete committed three Whereabouts Failures within a 12-month period on 11 May 2024, 13 June 2024 and 6 December 2024, the Tribunal finds that the Athlete violated Rule 2.4 ADR.

153. As a consequence of this finding, the Tribunal finds that it is not required to assess whether a Missed Test also may have taken place on 7 December 2024.

B. What should be the consequences thereof?

154. The AIU submits that a period of Ineligibility of two years is to be imposed on the Athlete, commencing on the date of the Tribunal's decision, with credit given for the period of Provisional Suspension imposed on the Athlete from 12 August 2025 until the date of the Tribunal's decision, as well as that the disqualification shall be ordered of any results obtained by the Athlete between 6 December 2024 and 12 August 2025, with all resulting consequences, including the forfeiture of any titles, awards, medals, points, and prize and appearance money.

155. The Athlete submits that, in case it would be established that he committed an ADRV, the applicable period of Ineligibility should be reduced to a maximum of 12 months given that his degree of Fault (if any) falls at the very lowest end of the scale.

1) The period of Ineligibility to be imposed

156. Rule 10.3.2 ADR provides as follows:

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

157. The term "Fault" is defined as follows in the ADR:

> "*Fault: Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete's or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in a career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Rule 10.6.1 or 10.6.2.*
>
> *[Comment: The criteria for assessing an Athlete's degree of fault are the same under all Rules where fault is to be considered. However, under Rule 10.6.2, no reduction of sanction is appropriate unless, when the degree of fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Athlete or other Person was involved.]*"

158. As a starting point, the Tribunal notes that "negligence" in the context of Annex B.2.4(e) ISRM is not the same as Fault in the context of Rule 10.3.2 ADR. Only if an Athlete was not negligent at all will they be acquitted of an alleged Whereabouts Failure. If there is some negligence on an Athlete's part this is normally not sufficient to acquit the Athlete from the Whereabouts Failure, but if the Athlete was not significantly negligent this may be taken into account in assessing the Athlete's level of Fault and justify a reduction of the default two-year period of Ineligibility.

159. Accordingly, the mere fact that the Tribunal concluded that the Athlete did not succeed in overturning the presumption that he was negligent with respect to the Whereabouts Failures on 11 May 2024 and 6 December 2024, resulting in an ADRV of Rule 2.4 ADR, does not necessarily mean that the Athlete cannot qualify for a reduction of the default two-year period of Ineligibility depending on the Athlete's degree of Fault.

160. In assessing the Athlete's level of Fault, the Tribunal agrees with the Athlete that the sanctioning scale set forth in *CAS 2013/A/3327 Marin Cilic v. ITF* and *CAS 2013/A/3335 ITF v. Marin Cilic* ("***Cilic***"), as calibrated in *Coleman* to the range of Sanctions that may be imposed under Rule 10.3.2 ADR, may provide helpful guidance in determining a specific period of Ineligibility depending on the Athlete's level of Fault:

> "*That is a helpful guide, though the calibration would necessarily be different here in light of the different possible period of ineligibility of 12-24 months; thus (albeit using slightly different labels) the following levels of fault would correspond to whereabouts cases: 'high' (20-24 months, with a midpoint of 22 months), 'medium' (16-20 months, with a midpoint of 18 months), and 'low' 12-16 months, with a midpoint of 14 months).*" (*Coleman*, paragraph 187, with reference to *Cilic*)

161. This notwithstanding, the Tribunal finds that such interpretation set forth in jurisprudence does not trump Rule 10.3.2 ADR, which remains the provision that is to be applied. The Tribunal finds that it follows from the wording of Rule 10.3.2 ADR that the default sanction is a two-year period of Ineligibility, but that this can be reduced down to a minimum of a one-year period of Ineligibility if warranted by the Athlete's degree of Fault. The burden of proof to establish that the period of Ineligibility should be brought down from two years therefore lies with the Athlete.

162. The Tribunal can in principle only assess arguments that are brought before it. Although the possibility is not excluded, it is not the duty of the Tribunal to *ex officio* or *sua sponte* consider arguments that have an impact on the level of Fault of an Athlete, and accordingly on the period of Ineligibility to be imposed.

163. The Tribunal will therefore primarily assess the arguments invoked by the Athlete that, in his view, justify a reduction down from the default two-year period of Ineligibility.

i. The arguments invoked by the Athlete

164. With reference to the American Arbitration Association ("**AAA**") decision rendered in *USADA v. Rollins* ("***Rollins***"), the Athlete argues that it should be taken into account that: i) this was his first offence after years of frequent testing, both In and Out-of-Competition; ii) the AIU showed no evidence of avoiding testing, masking drug use, or using drugs by the Athlete; and iii) the Athlete was, for each of the three Whereabouts Failures, "*outside its usual routine*" in the sense that, the Athlete was throughout 2024 and into 2025 experiencing serious family issues and legal challenges, which "*not only made it very difficult for* [him] *to accurately predict his whereabouts and competition schedule throughout that time, but also caused him severe stress and anxiety*" (Athlete's Brief, paragraphs 5.3 and 5.5).

165. As to the first argument, the Tribunal finds that the sanctioning regime set forth in Rule 10.3.2 ADR is applicable to first-time offenders. Should this have been the Athlete's second or third ADRV, Rule 10.9 ADR would have applied and a longer period of Ineligibility than two years would normally have been applicable. In any event, the Tribunal finds that the mere fact that this is the Athlete's first ADRV is not a circumstance that merits protection in the context of Rule 10.3.2 ADR. Indeed, the absence of prior ADRVs does not play a role in the assessment of the Athlete's degree of Fault in the ADRV committed in the matter at hand. This argument of the Athlete is therefore dismissed.

166. As to the second argument, the Tribunal finds that, if there had been evidence of the Athlete avoiding testing, masking drug use, or using drugs, additional ADRVs may have been committed. The absence of such indications is, however, not a mitigating factor in assessing the Athlete's degree of Fault with respect to the ADRV committed in the matter at hand.

167. As to the third argument, the Tribunal has already briefly assessed the Athlete's reliance on personal circumstances in the context of his negligence with respect to his Whereabouts Failure on 11 May 2024.

168. While the Athlete did not concretise or evidence the exceptional personal circumstances invoked in detail, he testified that it was in part related to disagreements with his wife as from May 2024 as a consequence of which he did not have a stable home situation, sleeping at different places. The Tribunal finds that this could have been a valid excuse, for example if, due to an argument, the Athlete would not have spent the night at the location where he anticipated spending the night and if this had resulted in a Missed Test. However, the Tribunal notes that, even on his own case, the Athlete fully complied with his Whereabouts duties at all times, at least with respect to the three Whereabouts Failures relevant for present purposes, so that such circumstances therefore did not have any impact on the ADRV or his degree of Fault.

169. Indeed, the Tribunal reiterates what it already indicated *supra* with respect to the Missed Test of 11 May 2024:

> "[O]*n the Athlete's own case, his personal circumstances did not prevent him from accurately and timely updating his whereabouts information between 30 April 2024 and 11 May 2024. The Athlete also submits that he was at the location where he had indicated he would be, Jamaica.*"

170. The Tribunal finds that the same applies to the Missed Test of 6 December 2024. On the Athlete's own case, his personal circumstances did not prevent him from accurately and timely updating his Whereabouts information for 6 December 2024. The Athlete also submits that he was at the location where he had indicated he would be, at the [redacted] Address.

171. The Tribunal therefore finds that the Athlete did not establish in which way the personal circumstances invoked should reduce the level of Fault attributable to him.

172. Also insofar as the Athlete in the context of personal circumstances relies on his widely reported arrests in January and May 2025, given that these arrests took place after the Athlete's third Whereabouts Failure, the Tribunal finds that, impactful as the arrests may have been, they did not play a role in the Athlete's ADRV and are therefore irrelevant with respect to the Athlete's level of Fault.

173. On this basis, the Tribunal finds that all three specific arguments invoked by the Athlete in the context of his degree of Fault are to be dismissed.

ii. The Athlete's degree of Fault with respect to each of the three Whereabouts Failures

174. Turning to the Athlete's degree of Fault with respect to each of the three Whereabouts Failures, the Tribunal finds as follows:

1. The 11 May 2024 Missed Test

175. There is no contemporaneous evidence on file establishing that the Athlete encountered any technical problems with the USADA Athlete Connect app between 30 April 2024 (the date he received his travel itinerary for his trip to Jamaica) and 11 May 2024. In the absence of such evidence, the Tribunal finds the Athlete's testimony that he had updated his Whereabouts information prior to 11 May 2024 not credible.

176. The Athlete initially testified that he only found out that his Whereabouts update had not recorded when he was notified of the Missed Test on 13 May 2024, but following his testimony at the hearing, the Tribunal finds that he realised about this when the DCO showed up at his house on 11 May 2024 more credible, also because the Athlete's Whereabouts information was in fact updated during his designated 60-minute time slot on 11 May 2024.

177. Even though the Athlete alleges to have encountered problems with the USADA Athlete Connect app, there is no contemporaneous evidence of him reporting any such issues to

anyone at that time. Also, the Tribunal finds that the Athlete's degree of Fault was high, because, even if the Athlete's testimony that he encountered problems with the USADA Athlete Connect app were accepted (*quod non*), he apparently did not double check whether the Whereabouts information he claims to have updated for his trip to Jamaica was correct before travelling there. Accordingly, the Athlete was in a different country to that indicated in his Whereabouts information.

178. Given that the Athlete submits that his Whereabouts information had been updated correctly and that he was where he should have been, the personal circumstances invoked by the Athlete did not play any role in the circumstances that resulted in the Missed Test.

179. In these circumstances, the Tribunal finds that the Athlete's degree of Fault with respect to the Missed Test on 11 May 2024 was high.

2. The 13 June 2024 Missed Test

180. There was some confusion in the Athlete's testimony as to whether he was three blocks or three minutes away from the hotel at the Munich Address when the DCO came to test him. Regardless of which one it was, the Tribunal finds that the Athlete was clearly at Fault in leaving the hotel during his designated 60-minute time slot. Had the Athlete remained in the vicinity of the hotel and informed a staff member where he could be found in case a DCO would come to test him, the Athlete's degree of Fault could arguably have been limited to a certain extent. However, there is no evidence on file suggesting that the Athlete took any precaution, as a consequence of which the Tribunal finds that the Athlete's degree of Fault was high.

181. Furthermore, the DCO indicated in the UAR that the Athlete was called on the provided phone number, but that only the voicemail was reached. The Tribunal finds that not answering the DCO's calls, even if from an unknown number, during the Athlete's designated 60-minute time slot is careless and enhances the Athlete's degree of Fault.

182. Given that the Athlete submits that his Whereabouts information was correct and that he was close to where he should have been and because the Tribunal finds that the Athlete's personal circumstances did not reasonably play any role in his decision to leave the hotel during the designated 60-minute time slot to go for a "*shake out*", the personal circumstances invoked by the Athlete did not play any role in the circumstances that resulted in the Missed Test.

183. In these circumstances, the Tribunal finds that the Athlete's degree of Fault with respect to the Missed Test on 13 June 2024 was high.

3. The 6 December 2024 Missed Test

184. As held in *Coleman*, paragraph 184, the Tribunal finds that, after two Whereabouts Failures having been recorded, the Athlete should have been on a high alert, knowing that a third Whereabouts Failure would result in an ADRV. On that basis, the Tribunal finds that an increased level of caution was to be expected of the Athlete.

185. However, the Athlete was careless in providing insufficient information about the [redacted] Address in his Whereabouts information. The information provided did not allow the DCO to locate the Athlete. Rather, it was only because of the assistance of a maintenance worker that the DCO could enter the building and reach the door of the apartment where the Athlete was staying.

186. Furthermore, whilst inside the apartment, the Athlete must have placed himself in a position where he was not able to hear the doorbell or knocking on the door, as it is established by videos of the DCO that he rang the doorbell and knocked on the door. This is clearly not in accordance with the standard of behaviour required of a prudent Athlete.

187. The Athlete also deliberately refused to answer three telephone calls received from the DCO towards the end of his designated 60-minute time slot. As concluded *supra*, the Tribunal finds that not answering such calls "*was not just negligent but reckless*".

188. Also here, given that the Athlete submits that his Whereabouts information had been updated correctly and that he was where he should have been, the personal circumstances invoked by the Athlete did not play any role in the circumstances that resulted in the Missed Test.

189. In these circumstances, the Tribunal finds that the Athlete's degree of Fault with respect to the Missed Test on 6 December 2024 was not just high, but exceptionally high.

iii. Conclusion on the period of Ineligibility to be imposed

190. Considering the above, and in application of the sanctioning regime set forth in *Cilic*, as calibrated in *Coleman* to the range of Sanctions that may be imposed under Rule 10.3.2 ADR, the Tribunal finds that the Athlete's objective level of Fault was in the "high" category, corresponding to a period of Ineligibility between 20 and 24 months, with a midpoint of 22 months.

191. As set forth in the definition of Fault as cited above, an Athlete's experience may be taken into account in assessing the level of Fault. The Athlete is a 30-year-old Athlete who successfully competed in multiple Olympic Games. He has been included in the Registered Testing Pool since 2017 and has been subject to doping control regularly for over eight (8) years. The Tribunal finds that the Athlete was therefore very experienced, which increases his subjective level of Fault.

192. Another element that can be taken into account pursuant to the definition of Fault is the "*degree of risk that should have been perceived by the Athlete*". In this respect, unlike situations in which Athletes are sanctioned for an Adverse Analytical Finding, an Athlete violating Rule 2.4 ADR has already accumulated two Whereabouts Failures, and is therefore on high alert, knowing that a third Whereabouts Failure will result in a violation of Rule 2.4 ADR. The Tribunal therefore finds that the Athlete's level of Fault is increased because the degree of risk he should have perceived was high.

193. However, despite such high degree of risk, rather than becoming more prudent in complying with his Whereabouts obligations after two Missed Tests, the Athlete only became more negligent and, to a certain extent, reckless, as demonstrated by the circumstances related to the third Missed Test on 6 December 2024, where the Tribunal considers the Athlete's degree of Fault to have been exceptionally high.

194. In view of the above aggravating factors on the Athlete's degree of Fault and in the absence of any factors invoked by the Athlete that justify a mitigation of the Athlete's level of Fault, the Tribunal finds that the Athlete's subjective level of Fault was high, justifying a two (2) year period of Ineligibility.

195. Consequently, the Tribunal finds that a two (2) year period of Ineligibility is to be imposed on the Athlete.

2) The starting point of the period of Ineligibility and credit for the Provisional Suspension served

196. Rule 10.13 ADR provides that, in principle, "*the period of Ineligibility will start on the date of the decision of the hearing panel providing for Ineligibility*."

197. Pursuant to Rule 10.13.2(a) ADR, "*If a Provisional Suspension is respected by the Athlete or other Person, then the Athlete or other Person will receive a credit for such period of Provisional Suspension against any period of Ineligibility that may ultimately be imposed.*"

198. Accordingly, the Athlete is serving a Provisional Suspension since 12 August 2025, and such period is to be credited against the two (2) year period of Ineligibility imposed.

3) The Disqualification of the Athlete's results

199. Rule 10.10 ADR provides as follows:

> "*In addition to the automatic Disqualification of the results in the Competition that produced the positive Sample under Rule 9, all other competitive results obtained by the Athlete from the date a positive Sample was collected (whether In-Competition or*

Out-of-Competition) or other anti-doping rule violation occurred through the commencement of any Provisional Suspension or Ineligibility period, will, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, titles, points, prize money, and prizes."

200. Given that the Athlete's ADRV occurred on 6 December 2024 with his third Whereabouts Failure within a 12-month period, all competitive results obtained by the Athlete as from such date through the commencement of the Provisional Suspension imposed on 12 August 2025 are, unless fairness requires otherwise, Disqualified with all resulting Consequences.

201. The Tribunal finds that fairness does not require otherwise, nor did the Athlete argue that fairness requires otherwise.

202. Consequently, all the Athlete's competitive results obtained as from 6 December 2024 through the commencement of the Provisional Suspension imposed on 12 August 2025 are Disqualified with all resulting Consequences, including forfeiture of any medals, titles, points, prize money, and prizes.

VII. COSTS

203. The AIU has requested a contribution towards WA's legal costs in these proceedings. Costs are a matter for the Panel's discretion pursuant to Rule 8.12.4 ADR.

204. As an ADRV has been established and the Athlete is sanctioned with a two (2) year period of Ineligibility in line with the AIU's requests for relief, but also considering that an in-person hearing took place upon the request of the Athlete which increased the costs of the proceedings and the costs of the Parties, the Tribunal considers it reasonable and fair that the Athlete pays a contribution of three thousand Pound Sterling (£3,000.00) towards WA's legal fees and other expenses incurred in connection with these proceedings.

VIII. OPERATIVE PART

205. Based on the aforementioned considerations, the Tribunal rules as follows:

(i) The Athlete committed an ADRV pursuant to Rule 2.4 of the 2024 WA ADR.

(ii) The Athlete is sanctioned with a period of Ineligibility of two (2) years, commencing on the date of this decision. The period of Provisional Suspension between 12 August 2025 until the date of this decision – if effectively served – shall be credited against the total period of Ineligibility to be served, so that the period of Ineligibility to be served runs in principle until 11 August 2027 inclusive.

(iii) All competitive results of the Athlete since 6 December 2024 through 12 August 2025 are Disqualified with all resulting Consequences, including forfeiture of any medals, titles, points, prize money and prizes.

(iv) The Athlete is ordered to pay WA a contribution of three thousand Pound Sterling (£3,000.00) towards its legal fees and other expenses incurred in connection with these proceedings.

IX. RIGHT OF APPEAL

206. This decision may be appealed to the CAS, located at Palais de Beaulieu, Avenue Bergières 10, CH-1004, Lausanne, Switzerland (procedures@tas-cas.org), in accordance with Rule 13.2 ADR.

207. In accordance with Rule 13.6.1(a) ADR, the Parties shall have thirty (30) days from the date of receipt of this decision to file an appeal to the CAS.

Dennis Koolaard

(Chair)

Erika Riedl

David Sharpe KC

On behalf of the Disciplinary and Appeals Tribunal

London, United Kingdom

27 February 2026