

PANEL OF THE IAAF ETHICS BOARD

Mr Lauri Tarasti (Chairperson)

Ms Annabel Pennefather

Mr Tom Murray

In the matter of Nick Davies and the IAAF Code of Ethics (06/2017)

In the matter of Jane Boulter-Davies and the IAAF Code of Ethics (07/2017)

In the matter of Pierre-Yves Garnier and the IAAF Code of Ethics (08/2017)

DECISION

1. This is the decision of a Panel of the IAAF Ethics Board in respect of three IAAF employees (i) Nick Davies (ii) Jane Boulter-Davies and (iii) Pierre-Yves Garnier. Although each of their cases is separate and raises separate issues there is a sufficient degree of overlap in respect of the relevant factual background and the issues arising in their cases (especially as between the cases of Nick Davies and Jane Boulter-Davies) to mean that it is appropriate to deal with each of their cases in a single written decision addressing each of the three cases.
2. As employees of the IAAF, Mr Davies, Ms Boulter-Davies and Dr Garnier are each members of the "IAAF Family" as defined in the IAAF Code of Ethics and are each subject to its provisions and hence to the jurisdiction of the IAAF Ethics Board.
3. Each of Mr Davies, Ms Boulter-Davies and Dr Garnier were suspended from their duties at the IAAF pending investigation on 10 June 2016. At the time of their suspensions, Mr Davies was formally Director of the IAAF President's Office (though he has voluntarily ceased to undertake those duties since December 2015 pending investigation of his self-reference to the

Ethics Board), Ms Boulter-Davies worked in the IAAF Competitions Department and Dr Garnier worked in the IAAF Anti-Doping Department.

4. The relevant factual background is as follows.
5. In late December 2015, an email came into the possession of the news media. The email was one that had been sent by Nick Davies, who was, at the time of sending the email, the IAAF's Deputy General Secretary and Director of Communications, to Papa Massata Diack, marketing consultant to the IAAF and son of the IAAF's then President Lamine Diack, on 19 July 2013 (the "**19 July Email**") shortly before the start of the IAAF World Championships in Moscow. The email concerned a number of Russian athletes who had failed doping tests and discussed how to manage the news of that fact without damaging the imminent IAAF World Championships. As the reporting of this story in the English language press in December 2015 explained (to quote from the Guardian newspaper), in Mr Davies' email to Mr Diack, *"after stressing that the athletes who cheated should not be part of any Russian team for the World Championships "and Valentin [Balakhnichenov, the IAAF treasurer and head of the Russian Athletics Federation] should be pressurised to make sure this is the case", Mr Davies outlines a plan to minimise the damage."*
6. Although Mr Davies had stated in terms in the 19 July Email to Papa Massata Diack that the athletes who had failed doping tests must not compete in the competition, the terms of the email exchange between Mr Davies and Papa Massata Diack led to critical media coverage of the IAAF and Mr Davies in December 2015. Mr Davies therefore concluded, whilst maintaining that he had not acted in any way improperly, that the appropriate course of action was for him to temporarily step down from his duties at the IAAF and refer himself to the IAAF Ethics Board in order that the Ethics Board could consider whether the 19 July Email gave rise to any case for Mr Davies to answer under the IAAF Code of Ethics. Mr Davies referred himself to the Ethics Board on 19 December 2015.

7. The Panel notes that the 19 July Email is only relevant to the case against Mr Davies and has nothing to do with the cases against Ms Boulter-Davies and Dr Garnier.

8. On 18 December 2015, the French newspaper Le Monde published an article titled *“Les incroyables confessions de Lamine Diack, ex-président de la Fédération internationale d’athlétisme”*. The article stated that Papa Massata Diack had sent Lamine Diack an email on 29 July 2013 (the **“29 July Email”**) which was marked strictly confidential. The article in Le Monde described this email and quoted from it as follows:

“Sentant venir le danger, Papa Massata Diack adresse, le 29 juillet 2013, un mail à son père, intitulé « strictement confidentiel ». Il écrit que Valentin Balakhnitchev l’a sollicité « pour intervenir en interne auprès du personnel de l’IAAF qui lui a été antagonique dans le processus de gestion de ce dossier depuis septembre 2012 et à cette fin, un travail de lobbying et d’explication a été fait auprès de C. Thiaré (50 K), Nick Davies (UK press lobbying 30 K, et calmer Jane Boulter), G. Dollé (50 K) et PY Garnier (assistance champagnolle 10 K, géré par Cheikh). » « K veut dire kilo et la devise est en dollars ou en euros », explique doctement Lamine Diack lors de sa quatrième audition. Et de décrypter : « Papa Massata Diack a donné de l’argent aux uns ou aux autres pour les faire taire et qu’ils ne s’opposent pas ». ”

9. The Ethics Board’s appointed investigator, Sir Anthony Hooper (a former Lord Justice of Appeal of the Court of Appeal of England and Wales) came to learn that the relevant section of the email was, more fully, as follows:

“VVB m’a sollicité pour intervenir en interne auprès du personnel de l’IAAF, qui lui a été antagonique dans le processus de gestion de ce dossier depuis septembre 2012 et à cette fin un travail de lobbying et d’explication a été fait auprès de C. Thiaré (50 K), NDavies (UK press lobbying, 30 K et calmer Jane Boulter); G Dollé (50 K) et PY Garnier (assistance Champagnolle 10 K; géré par Cheikh qui s’est engagé à leur parler tous pour me rendre compte lundi 29 juillet);”

10. This can be translated in context into English as follows:

“VVB [Valentin Balakhnichenov] asked me to intervene internally with IAAF personnel who had been antagonistic towards him in the process of the management of the Russian cases [ce dossier] since September 2012 and, to this end, work of lobbying and of explanation has been carried out with C. Thiare (50 K), N Davies (UK press lobbying, 30 K and to calm down Jane Boulter); G Dollé (50 K) and PY Garnier (assistance Champagnolle 10K; managed by Cheikh who has agreed to speak to them so as to bring me up to date on Monday 29 July).”

11. The Second Report of the WADA Independent Commission (published 14 January 2016 and amended 27 January 2016) referred to this as follows, taken from page 5 of the report:

“The reports also indicate that LD was aware, through an email he received from his son, PMD, that other IAAF senior staff members who were “antagonistic” in the case management of [Russian athletes] needed to be bribed to stay quiet. Staff identified in the email were the Director of the Office of the President, Cheikh Thiaré, the Deputy General Secretary, Nick Davies, Dr. Gabriel Dollé and Dr. Pierre Yves Garnier, at the time in charge of the biological passport. LD apparently confirmed in the police interviews that “Papa Massata gave money to one or the other to keep them quiet and so they are not opposed.” According to the media reports, Nick Davies, Cheikh Thiaré and Dr. Garnier refute those claims.”

12. Although this email exchange between Papa Massata and Lamine Diack was not part of Nick Davies’ self-referral to the Ethics Board, on 28 January 2016, the Chairman of the IAAF Ethics Board, Michael Beloff QC, concluded:

- a. there was a case against Mr Davies warranting investigation in respect of the 19 July Email from Mr Davies to Papa Massata Diack and The Chairman appointed Sir Anthony Hooper to undertake that investigation.

- b. the case warranting investigation was not such as to warrant Mr Davies being provisionally suspended from his position (albeit this was somewhat academic as Mr Davies had already voluntarily temporarily stepped down from his duties pending investigation).
 - c. that in light of the reporting in the press of the 29 July Email from Papa Massata Diack to Lamine Diack, although this was not sufficient on its own to raise a prima facie case against Mr Davies, it was appropriate that this email also be considered in the context of Sir Anthony's investigation and Mr Davies be given an opportunity to comment on and respond to it.
 - d. The reporting of the 29 July Email was not itself sufficient to warrant the Ethics Board opening investigations into the other persons named in the 29 July Email, albeit that the Ethics Board would review Mr Davies' comments on this in light of the invitation that he address this in the context of Sir Anthony's investigation into the 19 July Email.
13. To assist Sir Anthony's investigation, Mr Davies sent a letter to Sir Anthony in which he addressed the question whether he had ever received any money from Papa Massata Diack as suggested by the 29 July Email. In that letter to Sir Anthony, Mr Davies stated, *"I want to make it abundantly clear that neither Lamine Diack or Papa Massata Diack ever gave me money (or arranged for a third party to give me money) to "keep quiet and so they are not opposed" or for any other reason."*
14. However, in the course of his investigation Sir Anthony formed the belief that the 29 July Email as reported in the press was genuine. As he explained to the Panel, *"Parts of it have been admitted to be true and much of it fits in with contemporaneous events and documents"*.
15. Accordingly, on 12 May 2016 one of the two Legal Secretaries of the IAAF Ethics Board, Tom Mountford, wrote to Mr Davies in material part as follows:

“[since the notice of prima facie case in January 2016], further information relating to that part of the Le Monde’s reporting [concerning the 19 July 2013 email] has come to light. In particular, it has been widely reported that GD [Gabriel Dollé] had accepted a sum of money in cash as suggested around the same time. Further apparently corroborative evidence (not of the suggestion of any payment to you) but of other details of Le Monde’s reporting has also emerged.

In light of that, Michael [Beloff QC] has determined that the question of the alleged payments referred to in that email should be fully examined...

I am therefore writing to ask that you and your wife Jane consent to provide disclosure of your bank statements to Sir Anthony for that period and, in so doing, certifying that you have provided the records of all bank accounts either of you hold.”

16. In response to this request, on 3 June 2016 Mr Davies sent the Ethics Board’s Legal Secretary copies of all bank accounts belonging to himself and (with her consent) Ms Boulter-Davies for the relevant period, including for their joint bank account.
17. The bank statements showed a payment of €5000 into the joint bank account of Mr Davies and Ms Boulter-Davies at the relevant times and payments totaling nearly €25,000 into Mr Davies’ sole account at the relevant times.
18. On 4 June 2016, Mr Davies also wrote a letter to Sir Anthony admitting that he had received money from Papa Massata Diack and had misled Sir Anthony’s investigation in this regard. Mr Davies stated amongst other things, *“I would like to apologise because I have not been truthful with you in reply to a key question in your investigation. I also sincerely regret misleading the Ethics Board, yourself and my solicitor... and I now want to set the record straight.”*
19. On 27 July 2016, Mr Davies accepted that his earlier false statement was a breach of the Ethics Code:

"I ... wish to admit that my false statement to you is a breach of the ethics Code. I intentionally misled an IAAF Ethics Board Investigator and while in due course I would wish to advance an explanation/mitigation I can already emphasise that I did so in panic at being drawn into matters of such seriousness, when I had not been a party to the cover up of the doping tests or any other intentional wrong doing."

Jane Boulter-Davies

20. During the course of Sir Anthony's initial investigation of Nick Davies, prior to the request made to Mr Davies by the Ethics Board's Legal Secretary for disclosure of bank records, Mr Davies' solicitor had provided Sir Anthony with a formal statement signed by Mr Davies' wife, Jane Boulter-Davies, and dated 26 February 2016. In this statement, Ms Boulter-Davies stated, inter alia:

"13. I have been asked whether there has been any mention of 30,000 K and there has not. [Nick] has done nothing inappropriate. Both he and I thought that everything was bonafide. Both he and I had no [suspicion] that there was corruption at IAAF. I can confirm that there have been no cash payments received by us. We have separate bank accounts and joint bank accounts.

...

17. I believe that the facts stated in this witness statement are true."

21. After her husband complied with the Ethics Board's request of 12 May 2016 to provide disclosure of their bank statements, and shortly after Mr Davies wrote to the Ethics Board and Sir Anthony to correct the record as to his receipt of the sum of €5000 and €25,000, Ms Boulter-Davies also wrote to Sir Anthony as follows:

"You ask about payments which my husband Nick received from the President Diack through his son PMD. Nick told me in July 2013 that the President had given him a bonus of 5000 Euros to recognize work he had done, notably for the Centenary Gala, and that he had specifically asked to pass on his thanks to myself. We were pleased to receive this bonus which I

deposited in our joint bank account.

Nick did mention that he had been asked to work even harder to ensure that the Moscow World Championships were a success. He told me that he had received additional money to help fund this effort only when we returned home after the World Championships and that this was deposited in his own account which I had no access to.

After April 2014 Nick also told me that he did not want to mention that he had received money from PMD and he has told you why in his own submission. He did not tell me to repeat this untruth but when questioned by yourself I felt obliged to support what my husband had said. This was a mistake for which I apologize and which I deeply regret.

At no stage was I asked by any person to modify the anti-doping procedures for which I was responsible, nor did I alter in any way my manner of working. Indeed, I find even the insinuation deeply hurtful since it goes against everything that I have worked hard and stood for over the past 22 plus years. Furthermore, I am sure you will find that, after these emails, I was one of the people pushing for answers on why the Shobukhova case was taking so long to be made public. This can certainly be corroborated by talking to Thomas Capdevielle and Huw Roberts."

Receipt of money by Dr Garnier

22. During the course of his initial investigation into Nick Davies, it also came to Sir Anthony's attention that Dr Garnier had admitted receiving €10,000 in respect of the organization of a commemorative athletics event in the Jura region and that Dr Garnier had written an attestation on the subject which he had provided to some individuals within the IAAF late in 2015. The fact of that attestation provided proof that Dr Garnier had also received the sum of money attributed to him in the 29 July 2013 Email.

Provisional Suspensions

23. In light of the disclosures by Mr Davies and Ms Boulter-Davies that they had received the sum of money indicated in the 29 July Email and misled Sir Anthony's investigation in respect of these sums, the wide reporting that Gabriel Dollé had also admitted receiving the amount of money attributed to him in the 29 July Email and Sir Anthony's identification of Dr Garnier's earlier attestation confirming that he had also received the sum of money indicated in the 29 July Email as being received by him, on 10 June 2016 the Chairman of the Ethics Board, Michael Beloff QC (having consulted the Ethics Board as a whole) concluded that there were prima facie cases warranting investigation against each of Mr Davies, Ms Boulter-Davies and Dr Garnier and that, without prejudging the outcome of those investigations, it was appropriate to impose precautionary provisional suspensions from their duties in respect each of Mr Davies, Ms Boulter-Davies and Dr Garnier pending investigation of the prima facie cases of breach of the IAAF Code of Ethics against them.

24. It is now sensible to address the case against each of the three individuals in turn, setting out this Panel's decision and the sanctions imposed.

Findings of the Panel in the case of Nick Davies

25. Nick Davies was charged, and admitted, the following breaches of the IAAF Code of Ethics as in force at the relevant time:

a. First Charge:

i. Breach of Articles C1(11) and (12) of the Code of Ethics which was in force from 26 November 2015 and committed during that period. Those Articles provide as follows:

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

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

- ii. Those provisions are to be read together with the duty of cooperation with an IAAF Ethics Board investigator under Rule 7 of the Ethics Board's Procedural Rules.
- iii. The charge which supported the allegations of breach was that Mr Davies had deliberately misled an IAAF Ethics Board investigation.

b. Second Charge:

- i. Breach of Article D(11) of the Code of Ethics in force from 1 May 2012 and which was in force at the time of the receipt of monies by Mr Davies from President Diack through his son Papa Massata Diack. That Article provides as follows:

"D(11) (Integrity) Except as may otherwise be permitted under this Section D, no IAAF Official shall, directly or indirectly, solicit, accept or offer any concealed remuneration, commission, benefit or service of any nature connected with their participation in Athletics or with their function as an IAAF Official."

- ii. The charge which supported this allegation of breach was that Mr Davies accepted concealed payments totaling €30,000 from President Diack via Papa Massata Diack.

26. Mr Davies admitted these charges and a disciplinary hearing was therefore convened solely to consider the appropriate sanction to impose for Mr Davies' admitted breaches.

27. For the purposes of that hearing Mr Davies submitted written representations through his solicitor, including character references from a number of people with close knowledge of his work in the sport and of his character over many years. During the course of the hearing, Mr Davies' counsel, Jim Sturman QC, made a plea of mitigation on behalf of Mr Davies as to the appropriate sanction to be imposed. Mr Davies also addressed the Panel directly and apologized for his actions and answered questions directed to him by the Panel.
28. In reaching our decision as to the appropriate sanction to impose we have had regard to Sir Anthony's detailed conclusions as to (i) the management of the Russian and other positive doping cases at the time (ii) the circumstances of Mr Davies' receipt of the €30,000 from Lamine Diack via Papa Massata Diack and (iii) Sir Anthony' analysis of the 19 July Email itself. Sir Anthony has conducted a very thorough examination of these issues in order to test and put in context each of Mr Davies', Ms Boulter-Davies' and Dr Garnier's accounts. Those findings include matters (some of which have already been the subject of the Ethics Board's decision in the Shobukhova affair) relevant to other cases presently under investigation by both the IAAF Ethics Board and criminal investigators in France and other jurisdictions. This Panel must proceed carefully and judiciously whilst those other investigations are in progress and we do not therefore say more than we need to in this decision to dispose of the cases before us.
29. On either the 17 or 18 July 2013 Mr Davies was given €30,000 in cash by Papa Massata Diack. The 29 July (2013) Email from Papa Massata Diack to Lamine Diack described the payment to Mr Davies in this way: *"UK press lobbying, 30K et calmer Jane Boulter."* Having earlier denied receiving any money, Mr Davies subsequently gave Sir Anthony a detailed account of the receipt of the cash. Mr Davies denies that he received the money corruptly. In the 19 July Email he wrote about athletes whom he described as *"Russian 'skeletons' we have still in the cupboard regarding doping"*:

"These athletes, of course, should NOT be part of any Russian team for these World Championships and Valentin should be pressurised to make sure this

is the case.”

30. In fact, a number of Russian athletes who should not have been entered for the IAAF World Championships in Moscow were in fact entered. It is helpful at this stage to refer to Ms Boulter-Davies' statement, in so far as it relates to this matter:

“8. It was my job to keep an eye on the athletes who were entered at major events, as we needed to do pre-competition ABP tests. So I looked closely at the provisional entry lists for the World Championships in Moscow. When I saw the list of entries from the Russian Federation I was really surprised to see a handful of athletes on there that I knew should not be there because I had been told that they had been provisionally suspended. I was very concerned. Thomas [Capdevielle] and Pierre-Yves [Garnier] worked in the next door office to me and we discussed the issue there and then. I told Thomas and Pierre-Yves that the Russian Federation had clearly entered these athletes. They were both livid. I was worried, because I thought that possibly I had screwed up, had made errors and perhaps should have been testing those athletes when I had stopped the testing at the beginning of 2013. I had been clearly told that these athletes were provisionally suspended but there they were in the Entry System. Gabriel Dollé mumbled something about there being a problem with the Russian Federation and that he would speak to them. I believe that Thomas and Pierre-Yves spoke to Huw Roberts and that he was going to go and meet the President.

9. After the meeting I was told by Thomas and Pierre-Yves that they had spoken to the Director of the President's office, Cheikh Thiaré, who had said that he would pass the information on to the President and that it would be taken on board. It was at this point that I told Nick, since I thought we were getting nowhere. I thought there was something wrong and that I had to protect the sport. I told my husband Nick. This was the only time that I had told him anything detailed about my work. I knew that Nick had regular contact with the President. I was starting to get concerned that nothing was happening, so I sent a copy of these Russians to Nick and asked that he could discuss the issue with the President.

10. Nick was shocked to know that provisionally suspended athletes might compete in Moscow. I do not think that he was that shocked that the Russians were trying to trick the system because everyone in athletics knew that Russia had a doping problem. I was also concerned that in the run up to the Moscow World Championships, the IAAF could be forced to promote athletes who would then later be discovered to be drug cheats which would harm the image of the sport. I had no idea at all that there was corruption within IAAF (which appears now to be the position) and was very confident in the ABP system which I thought was very reliable and accurate. My view at that time was that it was just due to ineptitude and that Gabriel [Dollé] was just not doing his job properly.

11. After this conversation Nick did speak to the President and to his son Papa Diack. They made it clear that the President would sort everything out and that the problems were coming from Russia. He said that the suspect athletes would not be competing. I did subsequently take a look at the list and although I was happy to see that they were taken off the list apparently at some stage some of them were put back on. Happily though, none of these athletes did in fact compete at Moscow.

31. It appears that Ms Boulter-Davies discovered the fact that suspended Russian athletes had been entered for the World Championships on or about 25 July 2013. In an email of that date and timed 11.11 to Dr Dollé, Dr Garnier and Mr Capdevielle, she wrote:

“Ci-joint la liste des engagés à ce jour pour Moscow, extraite de la « Entry System IAAF ».

Je suis surpris de noter que plusieurs athlètes que je pensais en cours de procédure pour des cas avérés (me semblait-il) de passeports sanguins sont inclus dans la liste des engagés Russes- ainsi Bakulin, Borchin, Kirdyapkin etc.

Qu'en est-il juste?”

32. A little later that day, Ms Boulter-Davies sent Mr Davies a list of five names saying they were on the list: Bakulin, Borchin, Kaniskina, Kirdyapkin and Zaripova.
33. Dr Dollé responded to the email from Ms Boulter-Davies by email, thanking her and saying that he was waiting for the final list of entrants. On 26 July 2013, Dr Dollé also sent Lamine Diack an email on the topic of the Russian athletes entered for the Moscow Championships which reads, "*Cher Président, Je vous transmets séparément pour votre information, trois courriels relatifs aux cas russes qui étaient à l'ordre du jour de notre dernière réunion le 18.07.2013. Je souhaite vous rencontrer pour en parler. Bien cordialement vôtre. Gabriel.*"
34. When Papa Massata Diack wrote the 29 July Email to his father, it seems clear from a reading of the whole email that Papa Massata was unaware of the fact that the names of the Russian athletes identified by Ms Boulter-Davies were no longer on the entry list.
35. Huw Roberts, in his witness statement prepared during Sir Anthony's first investigation, gave an account of events from July to the end of December 2013:

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

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

the World Championships in Moscow.

I was due to be present in Moscow for the whole period of the World Championships in August 2013 but I delayed my travel until I had confirmation that none of the Russian athletes with pending ABP cases would compete there, in line with the President's assurance to me. Once this information was confirmed, I travelled to Moscow for the final weekend of the Championships.

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

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

36. The document "IAAF comments on [WADA's] Independent Commission's Report #1", which was produced by the IAAF at the time of the publication of the first WADA IC Report, records:

"1.22.8 After the 2013 World Championships, President Diack assured the same IAAF staff members [Mr Capdevielle and Dr Garnier] who had confronted him previously that the six outstanding cases would be resolved by 31 October 2013, and then by 31 December 2013. But the six cases were not resolved, and they remained outstanding at year-end"

37. Huw Roberts resigned from the IAAF in March 2014 (although it was not known at the time by many IAAF staff members that Mr Roberts, who was not permanently based in Monaco, had in fact resigned) after a further deadline agreed with President Lamine Diack for the resolution of the Russian cases had not been met. At the end of February 2014, the allegations that money had been paid to cover up the Shobukhova doping violations

were emerging.

38. According to “IAAF comments on [WADA’s] Independent Commission’s Report #1”:

“1.22.11 In late June 2014, two IAAF staff members [Mr Capdevielle and Dr Garnier] from the Medical and Anti-Doping Department issued an ultimatum to President Diack to the effect that, if the outstanding Russian ABP cases were not resolved by ARAF by the end of July, they had to be referred to CAS or else the two staff members would also resign their positions at the IAAF. The cases were not resolved by ARAF within the stipulated timeframe and so, on 29 July 2014, the IAAF staff members referred the cases to CAS without further notice to their superiors at the IAAF.

1.22.12 The IAAF only agreed to stay those CAS proceedings (not to dismiss them) when ARAF advised that the six cases would be heard at first instance before a panel established by RUSADA (the Russian national anti-doping organisation). The RUSADA panel in each case found the charges proved and imposed aggravated sanctions. The IAAF agreed with the RUSADA panel’s findings as regards the anti-doping rule violations and corresponding sanctions but disagreed with the panel’s decision not to disqualify certain results that had been obtained by the athletes during the period of violation (including at World Championships and the 2012 Olympic Games). Therefore, in March 2015, the IAAF appealed all six cases to CAS. The appeals were successful.”

39. Dr Garnier has provided Sir Anthony with (a) an email dated 9 July 2014 which contains a draft email to the President from Mr Capdevielle and Dr Garnier and (b) the email as sent to President Diack. The email refers to a history of prevarication, failures to make decisions and passivity on the part of the IAAF and commitments not met, fictitious schedules and even lies on the part of “our Russian partners” for nearly two years. The letter asks the President for a meeting at which they would discuss the terms of their resignations. The letter is copied to Cheikh Thiaré but not to Gabriel Dollé.

40. As set out at paragraph 18 above, Mr Davies wrote to Sir Anthony on 4 June 2016 to admit that he had misled Sir Anthony's investigation in respect of Mr Davies' receipt of the €30,000. In his 4 June 2016 letter to Sir Anthony, Mr Davies wrote further:

"Sometime around the 16-18 July I met with PMD as has been documented in previous answers to you. We discussed the negative PR environment and the need to ensure that the World Championships in Moscow were a success for the sport and the IAAF despite the challenging circumstances of poor ticket sales and the media focus on doping and other negative stories. He also confided in me that Russia had supported the successful opposition party in Senegal during the recent Presidential elections and that this gave his father an added pressure to organise the best possible competition in Moscow. It was vital for the event to unfold without major incident and that his father needed me, as the IAAF Communications Director and one of the President's most trusted staff members, to do everything I could to assist.

At the end of the meeting, he handed me an envelope explaining that the President was releasing extra funds which should be used at my discretion to improve the media mood just prior and during the event. PMD said that the money could be used for hospitality or specific projects and for me to think about that. I did not open the envelope until later when I found it to contain 25,000 euros.

At the same time, he gave me another envelope (Later found to contain 5000 euros), which he explained was a bonus for me from President Diack to recognise my attitude and good work including my supervision of the IAAF Centenary in 2012. PMD emphasised that the President encouraged me to spend this money on the family as he also thought very highly of my wife Jane.

As a result, Jane was aware of the 5000 euro bonus when I returned from the meeting and the money was deposited in our joint account.

At this time, I trusted the IAAF President, who I worked closely with, and

believed the explanations I was given. I was not asked to subvert or turn a blind eye to any subversion of anti-doping procedures nor was I exposed to or aware of any other wrongdoing at all. I had not the slightest suspicion of any criminal schemes involving IAAF and ARAF representatives connected to doping. On the contrary, it was at this same meeting that I requested that the President intervene to remove the five Russian athletes from the Moscow start lists who we believed were being infiltrated by ARAF and action was promised.

At that time I completely trusted President Diack and believed that PMD was acting on his behalf. I was responsible for media and for promotion so I could see the point in being asked to do more in time of crisis.

I also knew that cash was requested and used for work purposes at the IAAF. Staff are used to receiving cash for meal allowances and "per diems" when we travel as well as to repay expenses incurred on our personal credit cards as we do not have work credit cards. These expenses are then reimbursed to us in cash by the IAAF Accounts Department. (Together with the bank statements I have attached a list of cash given to me by the IAAF between 2011 and August 2013 – a total of close to 20,000 euros).

For a couple of days after the meeting I left the envelope containing 25,000 in a drawer in my desk but as I was leaving for Moscow early in August I decided to deposit the money in my account. I would then be able to draw on the funds using my credit card. In the end, the Moscow World Championships came and went without major media crisis or need for major interventions/projects and having spent a fraction of the 25,000, I asked PMD what was the procedure for using the rest of the money or accounting for its use. He had no proposals and was disinterested, so I just kept the money in my bank and waited for a request for repayment from either PMD or the President since they had given me the funds."

41. No request for the return of the money was made. Indeed, Mr Davies told the Panel that when he discussed this with Papa Massata Diack in the stands at the end of the Moscow World Championships, Papa Massata told him to

keep the money. Mr Davies thereafter made no effort to return it. As set out below he accepted that this was a breach of the Code of Ethics.

42. In a further exchange with Sir Anthony, Mr Davies provided the following further information in response to Sir Anthony's questions:

"Q. It appears from your letter of June 4 2016 and from page 2 of that part of your letter of 12 February 2016, that the emails to PMD of Friday 19 July 2013 at 16.36, 16.39 and 17.12 or 18.12 (I have 2 copies of the email, one timed at 17.12 and one timed at 18.12) were written after the meeting at which you were given the two envelopes? Is this right? When did you open the envelopes? Did you open them before or after sending the email of 19 July? Were you surprised to find €30,000 in the envelopes? If so, why? If not, why not?"

A. I recall being called to attend a meeting which took place in the evening of the 17 or 18th July at the Hotel Fairmont in Monaco, but definitely before I sent the email. I opened the envelopes after leaving this meeting. I was not surprised there was money in the envelopes because this had been discussed during the meeting – but I was not aware of the amounts until I opened them.

PMD said the meeting had been requested specifically by his father, the IAAF President. After a general discussion, I was told that LD wanted to recognise the good work that I had done in recent years, especially as Head of the IAAF Centenary Project in 2012, with a special bonus. He also emphasised that the President thought very highly of my wife Jane and the work she was doing in anti-doping and as liaison for the Athletes' Commission and that I should tell her that. I thought that a bonus of 5000 was not excessive.

I was told that I was also getting a contingency fund for setting up any special Media relations, PR or promotion campaigns projects for Moscow, and I did not think 25,000 was excessive for that purpose.

We were accustomed to receiving cash at the IAAF and because I was told that this money was from the IAAF President I accepted his explanations. I did not believe that there could be any sinister motives behind these payments as I was not asked to do anything untoward.

The main argument was that it was important for the IAAF World Championships in Moscow to be a great success, but especially for the President.

We had discussed the fact that the 2013 World Championships in Moscow were in a very fragile state since promotional and ticket sales were not going well and the spectre of doping had raised its head again. I was asked to come up with new ideas which could help replace the negative news with more positive articles about the sport and the athletes who would be competing there. I also recall agreeing that it was important that Moscow demonstrated that athletics can thrive outside the Olympics.

PMD also confided in me that his father had been "helped" by the Russian authorities in the Senegalese elections where he had been working to oust President Wade, but that this matter should remain confidential. In return he asked for my help to make the Championships a success. I took that to mean that there was a geo-political reason why the Moscow World Champs was so important to LD. He had been obsessed by the political situation in his country for the past few years.

As IAAF Director of Communications and also responsible for promoting the Moscow World Champs, I was the right person to come up with ideas and projects to help improve the media environment. But PMD was/is an intimidating person and I did feel pressure to support a special mission which seemed very important, on a personal level, to his father.

I was not given detailed instructions about how to use the money so I was not completely sure, when the envelope was handed to me, what the money should be used for. That is why my email of 19th July proposes ideas, but there was no feedback and no actions were planned or carried out.

It certainly never crossed my mind then that the payments were in anyway dishonest/corrupt. Not only was I told that they were from the President, someone in whom I had complete trust, but I want to underline again that I was never asked to do anything unethical."

43. Mr Davies also stated:

"I knew that the President had the authority to approve and arrange payments including those made in cash. For this reason, I did not find payments to me that strange. I was not told that the money was from the IAAF, but "approved by the IAAF President" and I was left in no doubt that the mission I had been given was hugely important to LD.

.....

To be clear, I told my wife about the 5000 bonus –and the money was deposited in the joint account – when I received it, and that there was another sum of money (without giving her the total) immediately after Moscow. I did not tell anyone else in the IAAF family. I thought I had been given a special mission by the President which I was supposed to be discreet about.

Initially this cash was left in the envelope in the office, but I was leaving shortly for Moscow. The IAAF does not issue corporate credit cards and I use my personal card for work purposes. For this reason I deposited almost all the money in my account. I deposited the money via an ATM machine and was under the impression that only amounts under 10,000 euros were accepted in one go, so divided up the deposits. This was in the days leading up to my departure to Moscow.

My wife was not aware of these deposits as I stated before. The balance of 2300 was not deposited and I took that to Moscow with me as cash in case I needed to use it for purposes of media relations (I paid for some meals and drinks during the event).

With regard to the deposited money, I spoke to PMD before the closing ceremony in Moscow on 18 August about what I should do with the money as it had not been needed. I got no proposals for its use and he was clearly disinterested, so I took his reaction to mean I should just keep the money. Although I was prepared to repay the money at a later date if requested, no request was ever received and I treated the money as a further bonus for me to keep."

44. In further questions of Mr Davies by Sir Anthony, Mr Davies replied as follows:

"Q. At page 467 (Tab 7) of your documents there is an email to PMD dated 26 August 2013 in which you express the hope that PMD had had a bit of a rest after Moscow. There then follows emails from you to PMD dated 27 August (469), 28 August (472) and 4 September (475). There is no mention of the €25,000. Why is there no mention of the money in these emails? Is there any mention of this money in any email? If not, why not? When and where or how did you ask PMD about the procedure for using or accounting for the money?"

A. There was no mention of this money in any emails because I had already spoken to PMD in person on this subject on the last day of the World Championships in Moscow (18 August).

Q. You say [in your earlier letter] that you realised the payment was manipulative when the French police on 4 November 2015 read you the PMD 29 2013 email. By manipulative, do you mean corrupt? Having been told by PMD that he was disinterested in the money and that he had no proposals for its use or for accounting for it, did you realise at this stage (if not before) that the payment of the €25000 had been a manipulative/corrupt payment? If not, why not?"

A. By "manipulative" I mean that during my meeting with the Police I was shocked to be read an email which listed the reasoning given by PMD to his father for the payments which were not the same as the explanations I had

been given by him and had believed at the time. I was never aware of any co-ordinated efforts by IAAF and ARAF to subvert anti-doping procedures and to extort money. I should have said that I had received money. But I was afraid that I might then be suspected of involvement in the extortion scheme and decided, wrongly, to deny that I had received any money.

...

I can only underline that it was only in early 2014 that I began to worry that these payments may have been made with a sinister intent but I was shocked about the extortion schemes. I was frightened to admit receiving cash from them because of the context I was now aware of. This fear was only heightened during the police interview when I became aware of the 29 July email that seemed to show the true colours of PMD and LD and that my trust in the IAAF President had been misplaced.

I did not discuss this email with my wife because I knew that she would be terrified, as neither of us had done anything unethical or been aware of the conspiracy at the top. I had also been told not to discuss the details of my police interview with others. I thought it was better to wait for the criminal investigation to unfold since there would be further opportunities to talk to the police.

Q. I asked you whether you thought the €25,000 and the €5000 was IAAF money. You replied that you knew that The President had authority to approve and arrange payments including those made in cash. In paragraph 1 you also write that you were accustomed to receiving cash at the IAAF. Am I right to assume that you thought the two sums were IAAF money albeit that you were not told they were?

A. Yes, I thought the money given to me from the President was from IAAF funds rather than his personally.

Q. You mention an annual bonus in cash for helping with the Gala. How much? Was the International Athletics Foundation the payor? Is this the website of this organisation: <http://www.iaaf.org/about-iaaf/foundation?>

A. Yes – those bonuses were paid by the International Foundation whose President was also Lamine Diack. The sums varied but were a few hundred euros each time. This was not only given to me but others from the IAAF who worked on the organisation of the Gala.

Q. You state that there were occasions when staff and Council members and other representatives of the IAAF received cash and this was part of the IAAF culture. Please give me examples (other than the repayment in cash of “per diems”) including amounts, the names of those who received cash, why they received cash and from, or on the authority of, whom?

A. Representatives of the IAAF received cash to reimburse expenses or costs incurred organising courses or projects. IAAF staff members have requested and made payments in cash for work purposes and a large amount of cash was taken to past events for payments of meal allowances and per diems –for example approximately 500,000 US \$ was taken in cash to the most recent World Championships in Beijing.”

45. Mr Davies also stated that he was aware of or had been told of occasions when staff and Council members and other representatives of the IAAF received cash in respect of additional responsibilities including TV, marketing and promotions and competitions, and that this was part of the culture at the IAAF at the time which was not subject to the financial controls of the kind that would be expected in a modern organization in the present day. As an example of this he stated that due to the cash operation of expenses \$500,000 was taken in cash to Beijing World Championships to cover the various expenses incurred during the course of the competition (including meal allowances and per diems for staff and IAAF family members present to run and organize the competition).

46. Mr Davies also stated that he did not accept that this money was ever intended to “calmer Jane Boulter” or to ensure that he or she would “not be opposed”.

47. On 19 July 2013, very shortly after he had received the €30,000 from Papa Massata Diack, Mr Davies (who at the time was very busy dealing with issues concerning the upcoming Moscow Championships) sent an email to Papa Massata Diack which included the words: *"I am thinking of our PR company now- will speak to you later."* Mr Davies explained this to Sir Anthony in the following manner:

"In our discussions we had discussed the possibility of hiring a PR company to help the IAAF put forward a more positive image of itself, its anti-doping programmes and the World Championships in Moscow. In the end though, no action was ever followed up and no PR Company was commissioned for this purpose."

48. About two hours later, Mr Davies sent Papa Massata Diack the 19 July Email which reads as follows:

From: Nick Davies Sent: 19 July 2013 18:12 To: Papa Massata Diack
(pamassata@gmail.com) (pamassata@gmail.com)
<pamassata@gmail.com>

Subject: confidential

Dear Papa

Following our discussion earlier I have already had some thoughts and believe that we need to do the following, in strict confidence and control within a small circle of senior IAAF staff only. This must be very secret.

1 Continue the official IAAF PR and Promo plan working with LOC in Moscow

In addition to what has already been done, we are now finalising a campaign on the Moscow Metro, an increase in the number of OOH billboards and LED screens, a special PR campaign targeted at our host broadcaster VGTRK and a special campaign with the Moscow Times newspaper. This will require approximately 200,000 US\$ but this had already been discussed

and approved in principle in the 2012 Budget;

2 Connected to this we need to secure the following. Ensure that ARAF representatives, including Valentin and Mikhael Butov REFRAIN from speaking publicly or briefing the media in a negative way, which has sadly been the case recently. Furthermore, that they DELIVER their promises of free ticket programme guests during the event and also, very importantly, that they immediately begin to ensure that Russian athletes are made available for media promotion in the coming weeks, especially on VGTRK broadcasts and any other promo activities (Welcome in Red Square on 9 August etc). This must be an order from President Diack.

3 As well as this, it is important that the President can activate political support from his senior contacts in Russian politics directly and not rely totally on Valentin to do this for him, as I believe there is a lot of political infighting in Russia. Better that the President is able to go directly to ensure that the promises of the Mayor and the Sports Minister and the Defence Minister etc will be carried out as promised.

4 Finally, as soon as possible, and “unofficial” PR campaign to ensure that we avoid international media scandals related to the Moscow Championships especially in the British press, where the worst of the articles is coming from. This will require specialist PR skills (working only with me directly) from London, but I believe that if we consider using CSM we can also benefit from Seb’s political influence in the UK. It is in his personal interest to ensure that the Moscow World Champs is a success and that people do not think that the media of his own country are trying to destroy it... We can work extremely hard in stopping any planned “attacks” on Russia from the British press in the coming weeks.

5 Finally, I need to be able to sit down with the Anti-doping department and understand exactly what Russian “skeletons” we have still in the cupboard regarding doping. I think that the time to have unveiled the various athletes was a long time ago, and that now we need to be smart. These athletes, of course, should NOT be part of any Russian team for these World

Championships and Valentin should be pressurised to make sure this is the case. If the guilty ones are not competing, then we might as well wait until the event is over to announce them. Or – we announce one or two BUT AT SAME TIME as athletes from other countries. Also – we can prepare a special dossier on IAAF testing which will show that one of reasons why these Russian athletes come up positive is that they get tested a lot!!! In the same way, we can make the point that the WADA laboratory is the responsibility of WADA not IAAF and that if WADA decides there really is a problem, we have a Plan B to do the tests in Lausanne instead (Gabriel confirmed this to me yesterday)

Papa – as soon as I have an idea of the price of this unofficial PR campaign I will let you know, but I will do everything in my power to protect the IAAF and the President.

All the best

Nick

49. Mr Davies gave the following explanations for this email in answer to Sir Anthony's questions:

"Q. In your email of 19 July 2013 to PMD you wrote:

"I ... believe that we need to do the following, in strict confidence and control within a small circle of senior IAAF staff only."

Who knew about this email other than PMD?

A. I did not copy this email to anyone else, nor did I discuss it with anybody else so nobody else would have known about the discussion.

Q. Why did you write to PMD? What was his role?

A. I wrote to PMD as a follow up to discussions between myself, him and

President Diack on the topic of negative media coverage connected to the World Championships, tickets sales and doping (See Pages 1 to 10 of the email bundle enclosed herewith). We had discussed the fact that the 2013 World Championships in Moscow were in a very fragile state since promotional and ticket sales were not going well and the problem of doping amongst Russian athletes was also well known (there had been 34 sanctioned cases in 2013). We had discussed increasing the budget for promotions and PR for Moscow 2013 and coming up with new ideas which could help replace the negative news about Russia with more positive articles about the sport and the athletes who would be competing there. PMD always had a dual role as the main Marketing Consultant for the IAAF (There was a single Marketing and Promotions Budget) but he would also speak and act in the name of his father, the IAAF President.

Q. Did PMD reply to the email?

A. No he did not.

Q. Please list all the persons with whom you discussed any of the proposed actions, identifying which proposed action you discussed with which person and how you communicated with them.

A. Points 1 to 3 relate to ideas and suggestions to enhance the national promotions and PR campaign in Moscow and Russia together with the Local Organising Committee in Moscow. My main contact was the Marketing Director for Moscow 2013 Dimitry Binevskiy with whom I worked directly and on a daily basis. I would also have spoken to and emailed the President and General Secretary of the Russian Federation - Valentin Balakhnichev and Mikhael Butov respectively - who were also key figures in the Local Organising Committee of Moscow with regard to promotions and PR, as well as Essar Gabriel of the IAAF a key member of the Organising Committee. I would also have discussed PR activities with those Council Members who would be able to give a boost to the event - for example Sergey Bubka (who was a celebrity in Russia) and Lord Sebastian Coe, who was also well known in Moscow as this was the site of his first Olympic gold medal

and where his career first took off. Both Bubka and Coe took part in press conferences and PR activities in Moscow before the World Championships.

With regard to point 4, media handling strategies for the international media, no special campaign was ever set up. The media coverage remained stable and did not deteriorate in the way that we had feared.

Q. Who did you have in mind when you wrote: "a small circle of senior IAAF staff only"?

A. My feeling was that if such a plan had been carried out, the small circle would have been senior staff such as the General Secretary and the Competitions Director who were closely involved in the Event Organisation.

Q. 3. In the email you also wrote:

"Finally, as soon as possible, an "unofficial" PR campaign to ensure that we avoid international media scandals related to the Moscow Championships especially in the British press, where the worst of the articles is coming from. We can work extremely hard in stopping any planned "attacks" on Russia from the British press in the coming weeks."

Please identify the major articles in the British press to which you were referring. I assume that the Daily Mail article:

<http://www.dailymail.co.uk/sport/othersports/article-2357501/World-Athletic-Championships-rocked-Mail-Sunday-special-investigation-doping-Russia.html>

was one of them. Please confirm that I am right.

A. This was certainly a major article but my concern was about the rise in articles about doping in athletics generally. My email to PMD was sent a few days after news that two of the most famous athletes in the world - Tyson

Gay (the poster boy of IAAF sponsor ADIDAS) and Asafa Powell had tested positive (Sunday 14 July). This story was picked up not only by all UK media but internationally. I attach herewith copies of a large number of articles retrieved from the IAAF press department in response to your question, these articles appear to a fairly comprehensive collection of the press coverage between 14th and 21st July 2013 inclusive.

....

On the same day at 17.13 I emailed my colleagues...pointing out that several major ... stars were now unavailable (or were likely to be unavailable) for promotions.

It is important to bear in mind that the 19th of July email must not be looked at out of context. After the Gay and Powell news I had emailed the President on 15th July 2013 at 09.01...and I had informed him that I was in Moscow in relation to promotions and tickets, but I also emphasised that our message to clean up the sport was an important one. At the time I sent that email I believed The President was as committed to cleaning up athletics as we all were.

Q. *What planned attacks did you have in mind?*

A. *I was referring here to the need to defend the IAAF and the Moscow World Championships from attacks from the media. I did not know specifically what those attacks would consist of, and in fact, they did not materialise. However I wish to emphasise that the World Championships are an event of major significance to the IAAF, and after the success of the London Olympics we were keen to put on a great games to demonstrate that athletics could stand on its own two feet and did not only exist as part of The Olympics. Unfortunately in advance of a major event the press often drive a negative agenda, whether it be the Athens Olympics (unfinished stadia), Sochi Winter Olympics (no snow), London (insufficient security guards allegedly creating a heightened terror risk) or Brazil 2016 (Zika and the risks of a pandemic of microcephaly). The British press in particular can be*

unfairly critical and damaging and we needed to be alert to that risk. With the failed drug tests of Gay and Powell significant damage was done to the brand of one of our major sponsors, and to athletics generally. Experience shows that the media often continue to drive a story for several weeks and I was alert to the risk of such adverse publicity going forward.

There were many press enquiries regarding "doping cases" in the aftermath of the Gay and Powell tests, and that led to my giving a quote for an article in USA Today, see:

<http://www.usatoday.com/story/sports/olympics/2013/07/15/ioc-iaaf-look-at-bright-side-of-new-doping-cases/2518343/>

Q. The Daily Mail article made significant accusations about doping in Russia (which, having regard to the recent WADA reports appear to have been largely accurate). What steps were taken within the IAAF to have those accusations investigated? Did you take or suggest any such steps?

A. When contacted by the Daily Mail journalist with specific questions about the WADA accredited laboratory in Moscow, I did what I always do with requests about antidoping and that was to forward it to the Anti-doping department so they could reply with the correct and appropriate information which I would then forward to the relevant journalist on behalf of the IAAF. The Communications' staff would serve as liaison between the media and the anti-doping department. In this case, I received a reply by email from the Director of the Anti-doping department Gabriel Dolle, who stressed that the Moscow laboratory was under the responsibility of WADA and told me also that, confidentially, WADA was investigating the laboratory. With regard to allegations that there had been cover-ups of cases in Russia our response was that we had no evidence of this and we pointed to a rigorous testing programme targeting Russian athletes and the large number of sanctioned cases of Russian athletes which were in the public domain. I did not believe that there were "cover ups" going on, and at the time there was no evidence of that. On the contrary, our rigorous (or so we believed) anti-doping programme was in place because we took doping very seriously indeed.

From the beginning of 2013 I had become aware of misgivings and tensions amongst the anti-doping department about the length of time it was taking to process ABP tests, particularly tests involving Russian athletes. However, at the time of my email - in 2013 - I had no idea of the true extent of the scandal later shown to have been in existence. The misgivings were probably first explicitly expressed to me in the spring of 2013.

Whilst my wife Jane Boulter works in anti-doping we obviously tried not to discuss work at home, for reasons of confidentiality as well as to preserve a happy family environment. I was (and am) a friend of Thomas Capdevielle, and of Huw Roberts. All 4 of us were determined that cheats should not be allowed to compete.

Jane had never discussed any specific concerns with me but as The World Championships approached she seemed to me to be very tense. It is hard to remember the specific timeline as to when I heard what and from whom, but by June/July 2013 I had become aware that there were lengthy delays in finishing ABP enquiries, at first it was considered that perhaps Gabrielle Dolle was simply no longer up to the job, there was certainly no suggestion or belief that there was corruption involved.

By July 2013 Jane confided in me. She had discussed her concerns previously with Thomas Capdevielle and Pierre Yves Garnier, her concern was that athletes with suspect blood profiles may be allowed to compete in the World Championships because of the delays in processing their results. I understood that Jane, Thomas and Pierre had raised their concerns with Gabriel Dolle but did not receive a satisfactory answer.

However, my recollection is that it was Thomas Capdevielle who had first told me that there were a handful of Russian athletes who were a potential problem. He had told me over a coffee or lunch and also expressed concerns about the slow processing of claims in relation to Russian athletes, and an issue with race walking in particular. He didn't give me any specific details.

Before Jane confided in me all she would say when I asked her "what's up"

was "I cannot talk about it", she was at all times aware of the need for confidentiality in individual doping cases, but when the start lists for The World Championship were published in mid-July and she saw names listed who had suspicious profiles she opened up to me. She had become increasingly stressed and I asked if I could help. Jane explained her concerns about Russian athletes and the ABP process. She was of the view that there were very serious chances that the 5 or 6 athletes would compete in Moscow, when it had already been agreed that they should not be able to compete. The whole of the anti-doping department shared that view. In her view the athletes concerned should not be in the team, but they had been listed on the initial entry list even though she had understood they would not be because they would have been suspended or withdrawn from competition.

The "help" I offered to Jane was that I would speak to The President about the problem, however I could not do so without specifics. Jane was uncomfortable giving me the names but eventually agreed to do so as I told her I could not do anything without the specifics.

It is important to note that the ABP process can be a very long one, but where there are clearly adverse indicators it is common for athletes to be provisionally suspended. Nobody at the time believed for one second that Gabriel Dolle was corrupt, it was felt that perhaps ARAF were deliberately dragging their feet, perhaps motivated by a desire to excel at a "home" World Championships.

At meetings with L and P Diack (including the one referred to in the email of 19th July that dealt with a range of subjects around issues regarding promotion and ticket sales, the Tyson Gay and Asafa Powell failed tests and general promotion issues), I brought up the concern that Russia might try to enter into the Championships athletes who should not be competing. The answer I received was to the effect of "That won't happen. Leave it to me". I took that assurance at face value, I wanted clean athletics and at the time I believed the President did as well.

Q. 4. *In the email you also wrote:*

"I need to be able to sit down with the Anti-doping department and understand exactly what Russian "skeletons" we have still in the cupboard regarding doping. I think that the time to have unveiled the various athletes was a long time ago".

When you wrote that "the time to have unveiled the various athletes was a long time ago", please give a full account of your state of mind at that time regarding such athletes, list the names of the athletes and from whom you had obtained the information about these athletes. From whom did you understand that there were Russian skeletons and what did you understand about the skeletons? To whom, if anyone, did you report your concerns about Russian skeletons and the failure to unveil them?

A. If my point 5 in the email of 19th July 2013 is examined carefully, you will note that I also begin this paragraph "finally", even though my point 4 also began "finally". This Paragraph was really a separate (albeit related) topic to that under discussion at points 1 to 4 in the email. As I have already indicated above, in the lead-up to the World Championships I had become aware of concerns within the IAAF anti-doping department relating to the speed with which the Russian Athletics Federation (ARAF) was dealing with a number of anti-doping cases that the IAAF had referred to it. Above all, there was a real concern that there were a handful of athletes (5-6 athletes - 5 names I recall specifically are, Balkulin, Borchin, Kaniskin, Kirdyapkin and Zaripova) who, despite having suspicious ABP profiles, appeared on the IAAF "Competition Entry System" on 25 July as members of the Russian team. I was aware of this situation because of my wife Jane, who was very upset with the situation, but I had also discussed the matter with Thomas Capdevielle and Huw Roberts. I knew that Jane had raised her concerns with her superiors in the anti-doping department who told her they had discussed this issue directly with the President.

As I have already indicated above I spoke to The President about the 5 or 6 athletes and was assured there was "no way" they would be entered. Of course the athletes subject to ongoing testing could not be named publicly

until the end of the process when their right to confidentiality would end. I was concerned about the impact on the image of the sport when (and if) positive tests were published, and whilst the rules did not seem to be specific as to when names would be published I was aware of some delayed cases as explained above.

There were "PR" issues for the sport but I could not control the timing of the publication of adverse findings, I think it is fair to say I would have been happier if any further adverse findings were published after the games (particularly after the Gay and Powell news) but the decisions on timing were for the anti-doping department not me, and at no time did I assist in delaying the publication of names. Of course if the ABP profiles of the 5 or 6 athletes were clear, then according to Jane and Thomas the time for "unveiling" them was indeed long overdue. I had no control over the anti-doping process and at no time attempted to influence it.

I wanted to support her so I also raised the issue with the President and with PMD, in good faith, hoping that the IAAF would intervene to ensure that ARAF were brought into line and that no suspicious athletes would compete - which is stated in my email to Papa. My reference to "skeletons" was born out of a general uneasiness with the situation in Russia regarding doping as well as the prospect that athletes who had suspicious ASP profiles may be allowed to compete in the World Championships because of the delay in resolving their cases. If such athletes competed and won medals, but were exposed later because their ABP profiles in fact proved they had been doping the damage to the sport would be immense. I and my colleagues were committed to a clean sport, a sport where dopers would be unmasked and cast out of competition.

The "skeletons" refer to athletes in the anti-doping process... who might be pending a sanction. My concern was how to protect the reputation of the sport of athletics and the IAAF's biggest event which was only weeks away. Although I thought about sitting down with the Anti-doping department so that I personally would have a better understanding of what was still "out there" in terms of the Russian cases, in the end this was never done. I decided

it was better to focus on the work of delivering the Promotions and PR at the World Championships and to ensure that our communication team, working with the anti-doping department, would prepare detailed briefing papers about the IAAF anti-doping programme which could be used to answer any specific questions on doping both before and after the Moscow World Championships. A sample of the briefing could be provided if you would wish to see it.

Q. 5. In the email you wrote that "I will do everything in my power to protect the IAAF and the President". What were you protecting the IAAF and the President against and why?

A. I meant against any attacks from the media. Sometimes the criticism of the IAAF – and especially our anti-doping programme - was hostile and, so I believed, unfair as I strongly believed that the IAAF's anti-doping work was outstanding compared to other sports and that our efforts were not recognised by an unfair press. I was a passionate supporter of the sport and the IAAF. My reference to the President was because I considered that the IAAF and its President were two faces of the same coin. By promoting and protecting the reputation of the President I believed I was also promoting and protecting the IAAF. At the time of this email I had no idea of what was to later emerge and lead to the WADA report and police investigation.

Conclusions in Nick Davies' Case

50. Mr Davies has admitted accepting a concealed remuneration contrary to Article D(11) of the Code of Ethics. This admission is consistent with the facts, namely:

- a. Mr Davies admits (i) receiving from the President via his son PMD in July 2013 €25,000 in cash in an envelope, without any receipt, as extra funds to be used at his discretion to improve the media mood just prior to and during the IAAF Moscow World Championships, (ii) that the money was IAAF money and that he only spent for this purpose a small amount of the €25,000 on a few meals and drinks with

journalists, and (iii) keeping the balance for himself although he could have used this money for example in marketing work for the World Championships;

- b. Mr Davies admits that, from President Diack via his son Papa Massata Diack, he had received in July 2013 €5,000 in cash in an envelope as, so he says, a bonus for him from the President to recognise his attitude and good work including his supervision of the IAAF Centenary in 2012 and that the money was IAAF money;
- c. Mr Davies concealed having received these sums of money:
 - i. He did not tell anyone else in the IAAF family about it with the exception of his wife regarding the above mentioned bonus because, so he says, he thought that he had been given a special mission by the President about which he was supposed to be discreet;
 - ii. The sum was not mentioned in any email or in any accounting document;
 - iii. Mr Davies did not disclose the payment when he was interviewed by WADA on 18 June 2015;
 - iv. Mr Davies did not disclose the payment when interviewed by the French judicial authorities on 4 November 2015 (when he was shown the PMD-LD email of 29 July 2013);
 - v. Mr Davies did not disclose the payment during Sir Anthony's first investigation into the Shobukhova affair and lied about it during Sir Anthony's second investigation.

51. As Sir Anthony observed in his investigation, whilst it was a breach of the required standards of honesty for Nick Davies to have retained this concealed remuneration and subsequently to have lied about it, that is not

determinative of the question whether the payment was corrupt. Mr Davies has stated both to Sir Anthony and before the Panel that he was frightened to admit having received and retained the cash because of the serious corruption which had subsequently been uncovered at the heart of the sport as set out in the Ethics Board's decision in respect of the Shobukhova affair and in the reports of the WADA Independent Commission. Mr Davies' submission that he misguidedly acted out of fear that he disclosure of his receipt of the €30,000 would tar him with association in the more serious corruption of the anti-doping controls identified in the Shobukhova case and the WADA IC reports is consistent with the evidence as presently known. The evidence that exists shows that Mr Davies was seeking to uphold not subvert the proper anti-doping controls. We have heard no evidence which points in the contrary direction despite his initial dishonesty about having received the money properly raising the question whether he was seeking to conceal some wrongdoing. As a Panel we therefore emphasise that our finding is that Mr Davies received a concealed remuneration in breach of Article D(11) of the Code of Ethics and not that he acted in any way corruptly.

52. Mr Davies has also pleaded guilty to the charges of breach of Articles C1(11) and (12) of the Code of Ethics, namely to acting in a manner likely to affect adversely the reputation of the IAAF, the sport of athletics or to bring the sport into disrepute, and failing to act with utmost integrity, honesty and responsibility in fulfilling his role in the sport. It is an integral part of the fulfillment of every IAAF Family member's role in the sport that he or she cooperate fully with any IAAF Ethics Board investigation tasked with investigating potential breaches of the IAAF Code of Ethics to which all IAAF Family members are subject.

53. Mr Davies has admitted misleading the investigation carried out on behalf of the Ethics Board by Sir Anthony. That is an extremely serious matter. It is all the more serious for the fact that Mr Davies only admitted his lie when his hand was forced upon requests being made of him for his bank statements, which would inevitably identify that the €30,000 had in fact been received by him at the relevant time, thereby revealing his lie. Mr Davies receives credit

for the fact that (a) from this point onwards he cooperated fully and promptly with the Ethics Board's investigation and (b) he has admitted the charges against him. He has stated that he intends to repay these sums as he able to over time.

54. As a Panel, we have had regard to the submissions made on Mr Davies' behalf in mitigation and also to what Mr Davies has said directly to this Panel:

- a. First, Mr Davies has expressed deep remorse for his actions and has submitted that his actions were out of character. In support of his plea for leniency, Mr Davies filed statements from several character witnesses from other participants in the sport, including journalists with whom he worked as IAAF Director of Communications, who had longstanding experience of his dedication to the IAAF and athletics. His character referees testified to his dedication to the sport including that, *"he committed himself completely to the IAAF"*, that, *"over the years, my impression of Nick has often been of someone trying to hold things together for his sport."* Another stated, *"Nick has worked tirelessly to project the image of the IAAF in a positive light, not only because that was his job but because he is passionate about our sport. Nick loves athletics, it is not just a job for him. It is part of his life."*
- b. Second, as set out above, it is no part of our decision that Mr Davies acted in any way corruptly. Subsequent to the time of the IAAF World Championships in Moscow, extremely serious corruption at the heart of the sport has come to light. Those revelations have come as a shock to the majority of the IAAF's staff as well as to the wider public and it is important that we do not judge actions at the time through the lens of hindsight.
- c. Third, Mr Davies was peripherally (as anti-doping was not part of his job function and matters of anti-doping was largely kept confidential from him) involved in seeking to ensure the integrity of the anti-doping system at a time when it was, without the corruption or its

scale being clear or verifiable, coming under the significant pressure of the corrupt scheme identified in the Ethics Board's decision in the Shobukhova affair and the WADA IC reports.

- d. Fourth, Mr Davies has already been provisionally suspended since 10 June 2016, but stood down voluntarily from his role (only thereafter occasionally undertaking odd tasks) on 19 December 2015 pending investigation. He has therefore already served an effective suspension of over a year.
- e. Fifth, Mr Davies has spent his entire career in the sport of Athletics and a ban from participation in the sport in any form would seriously interfere with his ability to earn a living.

55. Taking all of the above into consideration, we have referred to our powers under Section D of the Statutes of the IAAF Ethics Board, which set out the sanctions which are open to us to apply in respect of an admitted or substantiated breach of the IAAF Code of Ethics.

56. We determine that the appropriate sanction to be imposed upon Mr Davies for his admitted breaches is an order for expulsion from his position with the IAAF pursuant to paragraph 17 (iii) of Section D (Sanctions) of the Statutes. From the date of publication of this decision, subject to any specific modalities of Mr Davies' contract of employment under the governing law of Monaco, Mr Davies is therefore expelled from his position with the IAAF with immediate effect.

57. Taking into account that Mr Davies has admitted a serious error of judgment and has reflected upon and sincerely apologized for that error, we have not determined it appropriate to ban Mr Davies from taking part in other Athletics related activities pursuant to paragraph 17 (iv) of Section D of the Statutes. Mr Davies is therefore free to seek employment elsewhere in the sport and to be involved in IAAF organized competitions and activities in any new capacity which he assumes within the sport.

58. The Panel has determined that in view of the importance of access to justice, as an employee of the IAAF subject to the Code of Ethics, it is reasonable that Mr Davies should make a contribution to the costs of these proceedings in the amount of €5000.

59. This decision is final subject to any appeal lodged with the Court of Arbitration for Sport according to its rules, pursuant to Articles F35-38 of the IAAF Code.

Findings of the Panel in the case of Jane Boulter-Davies

60. Jane Boulter-Davies was charged with a single breach of the IAAF Code of Ethics as in force at the relevant time. She admitted the charge:

- a. Breach of Articles C1(11) and (12) of the Code of Ethics which was in force from 26 November 2015 and committed during that period. Those Articles provide as follows:

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

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

- b. Those provisions are to be read together with the duty of cooperation with an IAAF Ethics Board investigator under Rule 7 of the Ethics Board’s Procedural Rules.
- c. The charge which supported the allegations of breach was that Ms Boulter-Davies had deliberately misled an IAAF Ethics Board investigation in respect of the receipt by her husband of the sum of €30,000.

d. The charge against Ms Boulter-Davies relates only to her conduct in respect of the information provided to Sir Anthony in his investigation relating to the receipt of the €30,000 by her husband. It is a part of the role of all participants in the sport – all IAAF Family members – truthfully and fully to assist any IAAF Ethics Board Investigation. It is not suggested that Ms Boulter-Davies contravened Articles C1(11) or (12) in respect of any other aspect of her work for the IAAF.

61. Upon the conclusion of Sir Anthony's investigation, both Sir Anthony and the Ethics Board considered that there was no case against Ms Boulter-Davies in respect of receipt of any concealed sum. The entirety of the €30,000 was received by Mr Davies and not by Ms Boulter-Davies. Only €5000 of the €30,000 received by Mr Davies from Lamine Diack via Papa Massata Diack was paid into the joint account of Mr Davies and Ms Boulter-Davies. The remainder was paid into Mr Davies' sole account and Ms Boulter-Davies' evidence (which Sir Anthony accepted) was that she was not aware of these sums paid into Mr Davies' sole account until after the event, and was not aware of the amount until much later. Ms Boulter-Davies therefore never directly received any concealed payment and had no reason to doubt that a bonus of €5000 might have been paid to her and her husband at President Diack's direction.

62. Having admitted the sole charge against her, a disciplinary hearing was therefore convened solely to consider the appropriate sanction to impose for Ms Boulter-Davies' admitted breach.

63. For the purposes of that hearing, Ms Boulter-Davies submitted character references from a number of people with close knowledge of her work in the sport and of her character over many years. During the course of the hearing, Ms Boulter-Davies' counsel, Christine Agnew QC, made a plea of mitigation on behalf of Ms Boulter-Davies as to the appropriate sanction to be imposed. Ms Boulter-Davies also addressed the Panel directly and apologized for her

error of judgment in misleading Sir Anthony's investigation and answered questions directed to her by the Panel.

64. Ms Boulter-Davies presently works in the IAAF's competitions department, having worked for the IAAF since 1993 and having previously worked in the IAAF's anti-doping department where her work included the operation of the athlete whereabouts programme by which the location of athletes is kept up to date in order to ensure the ability to subject athletes to unannounced random or intelligence-led out of competition testing.
65. At the outset of Ms Boulter-Davies' hearing, Sir Anthony made some introductory remarks emphasizing that his investigation had identified no evidence that Ms Boulter-Davies had behaved other than wholly properly in respect of her functions within the IAAF's anti-doping department. Indeed, Sir Anthony emphasized that the evidence showed that Ms Boulter-Davies had been doing her very best to ensure that Russian athletes who had failed doping controls would not compete. She acted diligently in discharging her obligations against the pressure of, unbeknownst to her, an extremely serious corrupt scheme taking place at the heart of the IAAF as described in the Ethics Board's decision in the Shobukhova affair and in the WADA IC reports.
66. Nevertheless, Ms Boulter-Davies has admitted misleading the investigation carried out on behalf of the Ethics Board by Sir Anthony and she has apologized for her conduct in that regard and for the damage it has done to the sport which she loves and has devoted her life to. She has submitted to the Panel that she made this serious mistake out of loyalty to her husband and from fear that her husband would be erroneously tarred with association with the serious corruption which had been uncovered amongst senior members of the IAAF (not including her husband).
67. Ms Boulter-Davies receives credit for the fact that (a) from the point of her husband's admission onwards she cooperated fully and promptly with the Ethics Board's investigation and (b) she admitted the charge against her at the earliest opportunity.

68. As a Panel, we have had regard to the submissions made on Ms Boulter-Davies' behalf in mitigation and also to what Ms Boulter-Davies has said directly to this Panel:

- a. First, Ms Boulter-Davies has expressed deep remorse for her actions. She submits, and we agree that her actions were wholly out of character. Once her husband had panicked and lied about the €30,000 received by him from Lamine Diack via Papa Massata Diack she was placed in an invidious position. In deciding to stand by her husband and support his lie she compromised her own position. She has stated and we accept that she would not have acted in the way she did had she had any suspicion that her husband might have been involved in the underlying corruption of the anti-doping process. She says that it was only because she knew that her husband had no part in the corruption of the anti-doping process and because she believed that he had lied in order to avoid an erroneous conclusion being drawn that he had been involved in the serious corruption and extortion which had subsequently come to light that she had decided to support his untruth to Sir Anthony. She describes a climate of fear at the time and said that from the moment she lied she felt a heavy burden upon her which has taken a great personal toll upon her.

- b. Second, in support of her plea for leniency, Ms Boulter-Davies filed several character witnesses from other participants in the sport, including athletes with whom she has worked in her roles at the IAAF, and who have decades of experience of her work for the IAAF and athletics. Her character referees testified that she is, *"a loyal, hard working, completely trustworthy employee"*, that she *"has dedicated almost her entire career to the IAAF and I have always known her to conduct herself with integrity, honesty, dedication and true love for the sport of athletics"*, and that she has been *"wholeheartedly committed to protecting the interests of the clean athletes"* and *"completely dedicated to the fight against doping."*

- c. Third, as set out above, Ms Boulter-Davies carried out her duties in the IAAF's anti-doping department and subsequently its competitions department in exemplary fashion and was an important part of the attempts within the IAAF to ensure that the corrupt scheme to allow athletes who had failed doping controls to participate did not wholly succeed. Ms Boulter-Davies involvement in seeking to ensure the integrity of the anti-doping system was at a difficult time for the department when unbeknown to most of the IAAF's staff, including the staff in the Anti-Doping Department, the serious corrupt scheme identified in the Ethics Board's decision in the Shobukhova affair and the WADA IC reports was being directed from the heart of the organization.

- d. Fourth, Ms Boulter-Davies has already been provisionally suspended since 10 June 2016 and has therefore already served an effective suspension of over seven months.

- e. Fifth, Ms Boulter-Davies has spent her adult life working in athletics and for the IAAF.

69. Taking all of the above into consideration, we have referred to our powers under Section D of the Statutes of the IAAF Board, which set out the sanctions which are open to us to apply in respect of an admitted or substantiated breach of the IAAF Code of Ethics.

70. We consider that the starting point is that misleading an IAAF Ethics Board investigation is a serious breach of the Code of Ethics in any circumstances. Ms Boulter-Davies has presented strong mitigation but, as she accepts, misleading an Ethics Board investigation cannot be excused in any circumstances. We consider that a breach of this nature regardless of the circumstances will inevitably lead to the imposition of a period of suspension or an order for expulsion.

71. In Ms Boulter-Davies' case we consider that the breach was a single occurrence which was wholly out of character and therefore an order for a

suspension from her duties with the IAAF for a period, pursuant to paragraph 17 (iii) of Section D (Sanctions) of the Statutes is a proportionate sanction. Rule 13(30) of the Ethics Board's Procedural Rules requires us to take into account the duration of a provisional suspension in reaching any final decision. Any period of suspension which we impose will therefore be backdated to run from the 10 June 2016 when Ms Boulter-Davies was provisionally suspended from her duties at the IAAF. We impose a final order for suspension from her duties at the IAAF for a period of 6 months. Backdated to 10 June 2016, that period of suspension therefore runs until 11 December 2016 and has, accordingly, already expired. Ms Boulter-Davies is therefore free to return to her duties at the IAAF with immediate effect from the day after the date of publication of this decision.

72. The Panel has determined that in view of the importance of access to justice, as an employee of the IAAF subject to the Code of Ethics, it is reasonable that Ms Boulter-Davies should make a contribution to the costs of these proceedings in the amount of €2500.

73. This decision is final subject to any appeal lodged with the Court of Arbitration for Sport according to its rules, pursuant to Articles F35-38 of the IAAF Code.

Findings of the Panel in the case of Pierre-Yves Garnier

74. Pierre-Yves Garnier was charged with two breaches of the IAAF Code of Ethics as in force at the relevant time:

a. First Charge:

i. Breach of Articles C1(11) and (12) of the Code of Ethics which was in force from 26 November 2015 and committed during that period. Those Articles provide as follows:

“C1 (Integrity) (11) Persons subject to the Code shall not act in a manner likely to affect adversely the reputation of the

IAAF, or the sport of athletics generally, nor shall they act in a manner likely to bring the sport into disrepute.

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

- ii. Those provisions are to be read together with the duty of cooperation with an IAAF Ethics Board investigator under Rule 7 of the Ethics Board's Procedural Rules.
- iii. The charge which supported the allegations of breach was that Dr Garnier refused to provide information requested of him by Sir Anthony as the Ethics Board's appointed investigator relating to a material aspect of Sir Anthony's investigation without any or any sufficient cause to do so.

b. Second Charge:

- i. Breach of Article D(11) of the Code of Ethics in force from 1 May 2012 and which was in force at the time of the receipt of €10,000 by Dr Garnier from President Diack through Cheikh Thiaré. That Article provides as follows:

"D(11) (Integrity) Except as may otherwise be permitted under this Section D, no IAAF Official shall, directly or indirectly, solicit, accept or offer any concealed remuneration, commission, benefit or service of any nature connected with their participation in Athletics or with their function as an IAAF Official."

- ii. The charge which supported this allegation of breach was that Dr Garnier accepted a concealed payment totaling €10,000 from President Diack via Cheikh Thiaré.

75. Dr Garnier denied both of the charges and a disciplinary hearing was accordingly listed to determine whether Dr Garnier was guilty of breach of the Code of Ethics as charged and, if so, what sanction ought to be imposed.
76. Sir Anthony was tasked with investigating the prima facie case of breach of the Code of Ethics by Dr Garnier in respect of his receipt of the sum of €10,000 from Lamine Diack as described in the 29 July Email as “*assistance champagnolle*”. As Sir Anthony explained in concluding his investigation, Sir Anthony did not proceed on the basis that he could rely on what Papa Massata Diack (a man found to have committed extremely serious breaches of the Code of Ethics in the Ethics Board’s decision in the Shobukhova affair and who had been banned for life from all participation in the sport) had said in his 29 July Email to his father as to the purpose of the money which had been given. Sir Anthony relied on what he found out in respect of these payments including what was said in the course of the investigation by Dr Garnier as to the money received by him.
77. In Dr Garnier’s attestation (there are in fact more than one slightly different versions of this document) sent to certain IAAF staff members on 5 January 2016 in response to the publication of the 29 July Email in the media in December 2015, Dr Garnier explained that he had received the €10,000 from Lamine Diack via Cheikh Thiaré to defray expenses which would be incurred in organizing for Lamine Diack, and at Lamine Diack’s request, a commemorative event in the Jura region of France. The purpose of this event was to commemorate the time that President Diack had spent in the Jura as a young athlete training with the French national athletics team. Dr Garnier stated that the receipt of the money had not been associated with any wrongdoing:

Attestation

Mon nom a été cité dans un article du quotidien français « Le Monde » du 18 décembre 2015 (en ligne ici) en référence à une pièce du dossier d’enquête de la Police française. Il convient, à toutes fins utiles, de vous partager un exposé des faits de façon plus formelle.

En préambule, je dois déplorer que mon éthique professionnelle soit « jetée en pâture » dans les médias, cette fuite d'information entre la justice et la presse contribuant à promouvoir la grande confusion générée par les personnes manipulatrices inculpées et dont je suis une des premières victimes, ayant souffert depuis trois ans et demi - comme vous - pour maintenir l'éthique et la compétence de cette institution et ayant été dans cette affaire trahi par toute notre ancienne hiérarchie.

Utilisé par des professionnels de la communication peu préoccupés par la vérité la suspicion que je puisse avoir été associé passivement voir activement aux faits de corruptions graves en cause dont vous et moi avons eu connaissance à posteriori : ceci est non seulement contraire à la vérité mais aussi est préjudiciable pour moi à titre professionnelle comme personnelle..... alors que ma déposition à la Police a été donné librement et dans le même souci de collaboration transparente et active qu'avec la commission indépendante de l'AMA, càd sans retenu.

...

Comme vous le savez et pour mémoire, à mon (notre) niveau de responsabilité j'ai (nous avons) combattu ensemble des tentatives d'interférence vis à vis de l'activité de Lutte contre le Dopage de l'IAAF qui ont été in fine mises en échec, mais tout ceci sans jamais avoir eu connaissance de l'ampleur et du degré pernicieux du système de corruption qui aurait été mis en place (Entente préalable et délictuelle entre nos responsables allant jusqu'à des chantages auprès d'athlètes devant être sanctionnés par le Passeport Biologique). Ainsi mon implication dans le retour de l'ex Pt Lamine Diack (LD) à Champagnole s'est faite compte tenu d'attaches personnelles locales et pour répondre à un projet privé de LD alors qu'à l'époque (début 2013) aucun indice ne pouvait nous laisser supposer être manipulé aussi gravement.

Comme évoqué plus haut l'Email [de 29 juillet 2013] de Papa Massata Diack (PMD) révèle à mes yeux non seulement la grande confusion / le conflit entre les intérêts privés et les devoirs institutionnels de LD, le niveau de

manipulation et de prévarication de son entourage (HC, PMD, GD, CT) une dérive éthique à laquelle l'institution a dû faire face et qui par voie de conséquence nous a mis sous la pression psychologique croissante d'un « conflit de loyauté » nous trouvant exposés à devoir réagir / souffrir face à cette une logique perverse, bien dissimulé par des mensonges répétés!

Par cet Email, je veux attester :

N'avoir jamais eu de lien avec Papa Massata Diack (PMD), aucun contact de toute forme que ce soit.

N'avoir jamais infléchi ma détermination pour combattre seul et avec vous, et de plus en plus douloureusement, les interférences obstinées de Gabriel Dollé (GD) puis la passivité de CT, enfin de LD, sur la gestion interne des conséquences règlementaires des conclusions scientifiques du Passeport Biologique dont j'ai la responsabilité depuis sa mise en oeuvre à l'IAAF, une mission qui reste mon investissement intellectuel et temporel le plus important de mes dernières années au service de notre institution.

Sur le plan de la LAD, càd notre champ de compétence, de responsabilité et de visibilité en cette affaire, ces interférences ont été toutes corrigées et mises en échec en Juillet 2014.

*Durant ces années très difficiles en interne dans notre département de fin 2012 à fin 2014 le seul mobile rationnel de ces interférences évoquées par vous et moi-même, à savoir "la raison politique" (toujours évoqué par LD lui-même lors de plusieurs entretiens avec lui et qui est resté comme le seul envisageable à notre niveau jusqu'au reportage de la TV ARD fin 2014), apparait maintenant avoir été un projet prémédité, très déviant, de corruption financière personnelle, mais qui était **inimaginable / insoupçonnable** à l'époque.*

Pour le projet « Champagnole » j'ai donné sans réserve (naïvement ?) le meilleur de moi-même et exposé mes relations privées du Jura, sans imaginer le degré de perte de considération morale de LD qui d'un côté m'a demandé cette implication personnelle affectivement chargée et de l'autre pensait apparemment infléchir mon combat pour

la défense de l'éthique et ma lucidité d'acteur totalement investit dans ma mission, dans son engagement professionnel.....quelle confusion, quelle perte de sens moral et de respect humain !

Remarque personnelle:

Cheikh Thiaré (CT) apparait clairement avoir mené un double jeu à mon égard, puisque PMD dans son Email évoque le projet Champagnole, ce qui laisse penser que la somme qui m'a été remise par CT « pour couvrir les frais du projet Champagnole » n'était pas pensée par LD ni par CT dans cet objectif / ne venait pas des fonds personnels de LD ou de l'IAAF, comme je pouvais le croire. A noter que seuls LD et CT ont été mes interlocuteurs pour le projet Champagnole, en y ajoutant Pierre Weiss (PW) sur certains aspects techniques.

Exposé des faits:

Début 2013, LD ayant évoqué son désir - plusieurs fois reporté - de revenir à Champagnole (6000 Habitants - Jura France) avec ses amis anciens membres de l'EdF (Equipe de France) d'Athlétisme, je lui ai fait parvenir une carte postale depuis cette petite ville....

Recevant ma carte, LD m'a appelé pour me dire "Un immense merci et SVP, organisez pour moi un pèlerinage là-bas !".

A cette époque, au-delà de certaines difficultés, confiant dans la promesse solennelle de LD de régler rapidement les problèmes de gestion des "cas russes" et pensant avec vous que compte tenu du crédit encore persistant de LD et de GD (malgré les premiers faits et n'ayant aucun élément pour suspecter un plan prémédité et ces actions de chantage machiavélique) j'ai accepté la demande de LD avec enthousiasme puisque cette région est devenue ma région "de coeur" ... depuis 25 ans.

Dans la foulée (Mars/Avril 2013) j'ai rencontré LD en deux colloques singuliers de 2 fois deux à trois heures pour mettre en place ce "pèlerinage"

(Une fois à l'hôtel Fairmont et l'autre fois en son bureau à l'hôtel Miraflores). A la fin du deuxième entretien, LD m'a dit « en sortant passez dans le bureau de CT qui vous remettra quelque chose pour les frais d'organisation ». De fait, ce jour-là CT m'a remis une enveloppe (que j'ai ouvert le soir chez moi) : Je n'étais pas surpris par le fait que ce soit en espèces, la demande de LD étant à caractère personnel, mais davantage par son montant, mais telle que cela m'avait été présenté, j'ai pensé que ceci devrait couvrir les frais d'organisation.

Malheureusement l'été et l'automne 2013 ayant apporté son lot supplémentaire de difficultés (par ex. lors des championnats du Monde de 2013 à Moscou avec cette lutte quotidienne avec...Thomas pour éviter la participation d'athlètes russes censés être notifiés et/ou sanctionnés), j'ai (nous avons) petit à petit commencé à douter de la sincérité de LD sans remettre en question mon engagement pour le projet Champagnole planifié en mai 2014, malgré un malaise grandissant, prégnant. Fin 2013 j'ai prévenu mon épouse que je devrais probablement quitter l'IAAF après le projet jurassien.... en avril 2013, le soir du dernier jour du projet "Champagnole" (18 mai 2014), ma décision de partir a été prise mais Thomas m'a alors proposé de mettre conjointement un ultimatum à LD pour déposer tous les cas « ABP » règlementairement en souffrance au TAS au 25/07/2014, ce qui a été fait, clarifiant à notre niveau toutes ces interférences (qui n'auront jamais au final intrinsèquement enfreint le Code mondial Anti-Dopage).

Pour être complet, ayant par la suite compris fin 2014 que cette somme n'était pas réellement destinée à couvrir l'ensemble des frais des manifestations ayant eu lieu à Champagnole, j'ai essayé de répartir son montant de manière juste. Ainsi, la somme recue a couvert des frais (à hauteur de 25 %), une solidarité avec des collègues (à hauteur de 10 %), un don auprès d'une association caritative du Jura (à hauteur de 25 %) et enfin une emuneration pour 4.000 €, soit l'équivalent de 3 semaines de salaire...."

78. This can be translated into English as follows:

“Statement

My name has been mentioned in an article in the French newspaper "Le Monde" of 18 December 2015 with reference to a document in a French police enquiry file. It is necessary, for all intents and purposes, to give you an explanation of the facts more formally. As an introduction, I seriously regret that my professional ethics have been "thrown to the mercy" of the media, this leak of information between the courts and the press contributing to the great confusion generated by the accused manipulative persons and of whom I am one of the first victims, having suffered three and a half years - like you - to maintain the ethics and expertise of this institution and having been betrayed in this case by our old hierarchy.

Used by communication professionals little concerned with the truth... [the press coverage raises] the suspicion that I could have been associated passively or actively with the acts of serious corruption in question of which you and I were aware a posteriori: this is not only contrary to the truth but also is prejudicial for me professionally and personally... when my deposition to the Police has been given freely with the same concern for transparent and active cooperation as with the independent commission of the AMA, that is without restraint.

...

As you know and for the record, at my...level of responsibility I have... fought together all of the attempts at interference as regards the activity of the IAAF Anti-Doping Fight which has been ultimately defeated, but all this without ever having been aware of the scope and pernicious level of the corruption system which had been put in place (Prior criminal agreement between our top people going as far as blackmailing athletes that should have been punished for the Biological Passport). Thus my involvement in the return of the former President Lamine Diack (LD) to Champagne was done taking into account local personal ties and to respond to a private project of LD when at the time (start of 2013) there was no indicator that would allow

us to suppose that we could be so seriously manipulated.

As mentioned above the Email [of 29 July 2013] from Papa Massata Diack (PMD) opened my eyes not only to the great confusion / conflict between the private interests and the institutional duties of LD, the level of manipulation and prevarication of his entourage (HC, PMD, GD, CT) an ethical slide which the institution must face up to and which as a consequence has put us under the increasing psychological pressure of a "conflict of loyalty" finding ourselves exposed to having to react / suffer in the face of this perverse logic, well hidden by repeated lies!

By this Email, I wish to confirm that I:

- Have never had any link with Papa Massata Diack (PMD), no contact in any form whatsoever.

- Have never lessened my determination to fight alone and with you, and more or more painfully, against the obstinate interferences from Gabriel Dollé (GD) then the inertia of CT, finally of LD, on internal management of the regulatory consequences of the scientific conclusions of the Biological Passport for which I was responsible since its implementation at the IAAF, a task which remains my most important intellectual and temporal investment of my last few years in the service of our institution.

- On the plan of LAD [sic], that is our field of competence, responsibility and visibility in this business, these interferences were all corrected and put out of action in July 2014.

- During these very difficult years within our department from the end of 2012 to the end of 2014 the only rational reason for these interferences mentioned by you and myself, that is to say "the political reason" (always mentioned by LD himself during several interviews with him and which remained as the only conceivable one at our level until the report from TV ARD at the end of 2014), now

appears to have been a premeditated design, seriously deviant, of personal financial corruption, but which was unimaginable / unsuspected at the time.

- For the "Champagnole" project I have unreservedly (naively?) given of my best and explained my private relationships with the Jura, without imagining the level of loss of moral consideration of LD who on the one hand asked for my own effectively busy personal involvement and on the other apparently tried to lessen my struggle for the defence of ethics and my lucidity as a player totally involved in my mission, in his professional undertakingwhat confusion, what a loss of moral sense and human respect!

Personal remarks:

Cheikh Thiaré (CT) clearly appeared to be have been playing a double game with regards to me, since PMD in his Email mentions the Champagnole project, which leads me to think that the sum which was sent to me by CT "to cover the expenses of the Champagnole project" was not part of the thinking of LD or of CT within this objective / did not come from the personal funds of LD or from the IAAF, as I might have thought. It should be noted that only LD and CT have been my interlocutors for the Champagnole project, adding to them Pierre Weiss (PW) on certain technical aspects.

Explanation of the facts:

Since the start of 2013, LD had mentioned his desire - deferred several times - to go back to Champagnole (6000 inhabitants - Jura France) with his friends, former members of the Athletics EdF ("Equipe de France" - French team), I had sent him a postcard from that small town...

Receiving my letter, LD called me to tell me "Huge thanks and please, organise a pilgrimage there for me!".

At that time, aside from certain difficulties, trusting in the solemn promise from LD to speedily settle the management problems of the "Russian cases" and thinking like you that taking into account the still persistent credit of LD and GD (despite the first facts and not having any details to suspect a premeditated plan and those actions of Machiavellian blackmail) I accepted the request from LD enthusiastically since that region had become my "favourite" ...

Immediately after (March/April 2013) I met LD at two different meetings twice for 2 to 3 hours to put in place this "pilgrimage" (once at the Hotel Fairmont and the other in his office at the Hotel Miraflores). At the end of the second meeting, LD told me "when you leave go to the office of CT which will give you something for the organisational expenses". In fact, that same day CT handed me an envelope (which I opened at home that evening): I was not surprised by the fact that it was in cash, the request from LD being of a personal nature, but more so by the amount, but as it had been presented to me, I thought that that should cover the organisational expenses.

Sadly the summer and autumn of 2013 brought on an additional batch of problems (for example during the world Championships of 2013 in Moscow with that daily fight with...Thomas to avoid the participation of Russian athletes counted as being notified and/or sanctioned) I (we) little by little began to doubt the sincerity of LD without calling into question my commitment to the Champagnole project planned for May 2014, despite a growing, significant unease. At the end of 2013 I warned my wife that I would probably have to leave the IAAF after the Jura project... in April 2013, the evening of the last day of the "Champagnole" project (18 May 2014), my decision to leave was taken but Thomas... then proposed to me to jointly put an ultimatum to LD in order to file all the "Abnormal Biological Passport" cases outstanding on a regulatory basis at the Court of Arbitration for Sport as at 25/07/2014, which was done,

clarifying at our level all these interferences (which had never in the end intrinsically contravened the World Anti-Doping Code).

For the sake of completeness, having thereafter understood at the end of 2014 that the amount was not really intended to cover the expenses of the events that took place in Champagnole, I tried to divide its amount in a fair way. Thus, the sum received covered the expenses (for 25 %), solidarity with colleagues (for 10 %), a gift to a charitable association in the Jura (for 25 %) and finally remuneration of 4,000 €, that is the equivalent of 3 week's salary...."

79. As Sir Anthony stated to the Panel, his investigation had identified no suggestion that Dr Garnier undertook his duties in the IAAF's anti-doping department other than with great effort to ensure that the proper anti-doping processes were adhered to. Dr Garnier was, Sir Anthony concluded, at the forefront of the battle to force the Russian Athletics Federation to take the necessary steps to prevent athletes who had failed doping controls from participating in athletics competitions and Sir Anthony accepted, as do we, that Dr Garnier was unaware at the time of the serious corruption exposed in the Ethics Board's decision in the Shobukhova affair.

80. As the WADA Independent Commission stated at page 44 of its Second Investigation Report, *"The IC commends the work, in particular, of Messrs. Capdevielle, Garnier and Roberts, who did their best, often in difficult circumstances, to ensure that anti-doping measures were properly and diligently implemented."* And as Dr Garnier stated in his defence in the current proceedings, he *"had never imagined that such corruption hid behind all the difficulties which we had to overcome internally in order to apply the World AD Code; a corruption which was cynical, financial, and even abject when one considers how the athletes due to be sanctioned were blackmailed"*

81. However, in order to test Dr Garnier's account and exclude any corrupt purpose associated with his receipt of the €10,000, Sir Anthony asked Dr Garnier a series of questions about his receipt of that sum, the timing of its receipt and the way in which the sums were ultimately used.

82. On Dr Garnier's own account by the end of 2014 he had realized that this money was not required to cover the expenses of the commemorative event in Champagnolle in the Jura, as these expenses had effectively been paid for by the local organizers, only 25% of the €10,000 related to expenses which had been incurred and Dr Garnier says that by this time he considered the sum of money to be compensation to him for extra professional work organizing the event and a sort of bonus to him from President Diack.
83. As a Panel we have heard evidence of the loose and cash-based nature of financial controls at the IAAF at this time and we accept that it would not have been a surprise to have been provided with cash to cover expenses which were to be incurred in organizing an athletics commemorative event for the President.
84. However, Dr Garnier's explanations as to the purpose of the sums and the way in which he was entitled to and did in fact divide the sum were not clear and he failed during Sir Anthony's investigation to provide clear explanations and to answer Sir Anthony's questions fully. We are ultimately satisfied by the answers that he has given in the course of his disciplinary hearing that Dr Garnier has a consistent and credible account of how the sums were allocated, part of the €10,000 being retained by Dr Garnier as a form of self-determined compensation for his work in organizing the event and to cover his travel expenses back and forth to the Jura, part being given to a colleague who was in financial difficulties and part being donated to a charity in the Jura region. Having initially declined to do so, Dr Garnier ultimately produced to Sir Anthony evidence substantiating the payment to the charity of the larger part of the €10,000.
85. We therefore conclude that when Dr Garnier realized that the sum received was not necessary to defray the expenses which it had originally been intended to defray but Dr Garnier nevertheless decided to retain it. Dr Garnier kept the receipt of the money secret and did not declare it as income, nor identify to others the fact of the payment even after his suspicions were raised, so he says, at the end of 2014 that it might have been given with some

kind of manipulative intent (even though it achieved no manipulative effect). This amounts to a breach of Article D(11) of the Code of Ethics, however we do not consider that there is any evidence that Dr Garnier's receipt of the money was in any way corrupt.

86. We consider that it was not acceptable that Dr Garnier failed to afford Sir Anthony full cooperation to establish the facts and to exclude that the payment had been received in association with any wrongdoing or corruption. By misguidedly seeking to rely on the principle of personal privacy not to answer relevant questions by Sir Anthony, Dr Garnier made Sir Anthony's work as investigator more difficult and failed to assist the Ethics Board, until a very late stage, to establish the relevant facts.
87. We draw attention to the fact that all members of the IAAF Family who are subject to an IAAF Ethics Board investigation are subject to the following duties of cooperation with the investigation as provided for by Rule 7 of the Ethics Board's Procedural Rules:

"Obligation of the Parties to co-operate

- 1. The parties shall be obligated to act in good faith during the whole Proceedings.*
- 2. The parties shall be obligated to co-operate with the Investigator and the Ethics Commission (including any Panel established by it) to establish the facts of the case. In particular, they shall comply with any request for information from the Investigator appointed pursuant to Rule 13.5, below, or the Ethics Commission (or any Panel established by it) and with any order to appear in person before the Investigator or the Ethics Commission (or any Panel established by it).*
- 3. If the parties fail to co-operate, the Investigator or Ethics Commission (or any Panel established by the Commission) as the case may be may reach a decision based on the file in possession, taking into account the conduct of the*

parties. The Ethics Commission may also treat non-cooperation as an independent breach of the Code of Ethics."

88. In failing to afford Sir Anthony with full cooperation in his investigation, we consider that Dr Garnier has contravened Article C1 (Integrity) (12) in that he has failed to act with utmost responsibility in fulfilling his role in the sport of Athletics. The duty of utmost responsibility in fulfilling the role of an IAAF employee or office holder includes fully cooperating with any IAAF Ethics Board investigation to establish the facts of any case where a breach of the IAAF Code of Ethics may have occurred.

89. We consider that Dr Garnier can avail himself of mitigation. He has ultimately cooperated with the Ethics Board to establish the facts, albeit too late in the process to receive full credit for his cooperation. The money he received from President Diack was also received in connection with the organization of a genuine event and was not in a significantly large sum. He has also given exemplary service in the fight against doping during his time working for the IAAF including some very difficult periods when the IAAF and its Anti-Doping Department were facing a serious concealed crisis in the form of the extortion scheme identified in the Ethics Board's findings in the Shobukhova affair. The governance structures of the IAAF existing at that time, which placed very significant powers in the hands of President Diack and others close to him and acting on his behalf, or claiming so to act, also placed IAAF staff members in a difficult position in seeking to uphold proper standards of financial probity and anti-doping controls in the sport. The effect of the provisional suspension upon Dr Garnier has also been significant. These factors do not detract from the fact that we have found the two breaches to be upheld but they are relevant to the appropriate sanction for us to impose.

90. Taking all of the above into consideration, we have referred to our powers under Section D of the Statutes of the IAAF Board, which set out the sanctions which are open to us to apply in respect of an admitted or substantiated breach of the IAAF Code of Ethics.

91. In the circumstances of Dr Garnier's failure fully to cooperate with an IAAF Ethics Board investigation (albeit that he did not at any stage, unlike Mr Davies and Ms Boulter-Davies, mislead the investigation) taken together with his acceptance and retention of a concealed remuneration, albeit relatively modest in scale, renders it proportionate for Dr Garnier to be subject to the imposition of a suspension from his duties with the IAAF for a period, pursuant to paragraph 17 (iii) of Section D (Sanctions) of the Statutes. Rule 13(30) of the Ethics Board's Procedural Rules requires us to take into account the duration of a provisional suspension in reaching any final decision. Any period of suspension which we impose will therefore be backdated to run from the 10 June 2016 when Dr Garnier was provisionally suspended from his duties at the IAAF. We impose a final order for suspension from his duties at the IAAF for a period of 3 months. Backdated to 10 June 2016, that period of suspension therefore runs until 11 September 2016 and has, accordingly, already expired. Dr Garnier is therefore free to return to his duties at the IAAF with immediate effect from the day after the date of publication of this decision.
92. The Panel has determined that in view of the importance of access to justice, as an employee of the IAAF subject to the Code of Ethics, it is reasonable that Dr Garnier should make a contribution to the costs of these proceedings in the amount of €2500.
93. This decision is final subject to any appeal lodged with the Court of Arbitration for Sport according to its rules, pursuant to Articles F35-38 of the IAAF Code.

L. Tarasti

A. Pennefather

T. Murray

31 January 2017