RESP
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BEFORE THE NEVADA STATE ATHLETIC COMMISSION

***

IN THE MATTER OF:	**RESPONSE TO COMPLAINT FOR DISCIPLINARY ACTION BASED ON THE DETECTION OF CARBOXYLIC ACID (A NON-PROHIBITED SUBSTANCE)**
NICK DIAZ	

COMES NOW, Respondent NICK DIAZ, by and through its attorney of record, ROSS C. GOODMAN, ESQ., of the Goodman Law Group, P.C., and submits this Response and Memorandum of Points and Authorities for consideration before the Nevada State Athletic Commission ("NSAC").

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Nick Diaz ("Diaz") is an authorized medical marijuana patient. As such, he did not test positive for marijuana (which is viewed as a prohibited substance if used without a medical marijuana license). Rather, Mr. Diaz tested for the presence of the ***inactive*** metabolite of marijuana known as THC-Carboxylic Acid ("Carboxylic Acid"). Under Nevada law and in Mr. Diaz's home state of California, however, neither marijuana nor marijuana metabolite is

considered a prohibited substance for users of medical marijuana.

In addition, the World Anti-Doping Agency ("WADA") only prohibits marijuana "in-competition" but not "out-of-competition." In preparation of the fight at issue, Mr. Diaz followed his general practice of stopping the use of medical marijuana eight (8) days before a fight. In WADA's view, marijuana consumption "out-of-competition" and marijuana metabolites in general, such as the detection of Carboxylic Acid in Mr. Diaz's post-fight urine test, do not violate the policy prohibiting substances that are considered performance enhancing or potentially dangerous.

As an authorized medical marijuana patient, Mr. Diaz's consumption is legal in both Nevada and California. Notably, WADA's limits on marijuana "in-competition", and the exclusion of marijuana metabolite in general, have been adopted by the NSAC. Accordingly, the presence of a marijuana metabolite is not a prohibited substance under NAC 487.850 and should not, therefore, serve as a basis for any disciplinary action.

II.

ANALYSIS

A. Marijuana Metabolite Is Not Defined As a Prohibited Substance For Legal Users of Medical Marijuana.

In 2001, Nevada legalized the use of medical marijuana. See NRS 453A.200. This exempted persons possessing valid registry identification cards from state prosecution for using medical marijuana. Id. In 2009, Nevada moved in line with other states with medical marijuana laws by excluding marijuana and marijuana metabolites as a "prohibited substance":

484C.080. "Prohibited substance" defined

> "Prohibited substance" means any of the following substances ***if the person who uses the substance has not been issued a valid prescription*** to use the substance and the substance is classified in schedule I or II pursuant to NRS 453.166 or 453.176 when it is used:

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5. ***Marijuana or marijuana metabolite.***

See NRS 484C.080 (emphasis added).

This plain language makes clear that marijuana and marijuana metabolites found in the body as a result of legal consumption are not considered prohibited substances. Here, Mr. Diaz's physician approved the use of marijuana to treat Attention Deficit Hyperactivity Disorder ("ADHD").[2] See Affidavit by Nick Diaz attached as Exhibit "A." As a result, the presence of Carboxylic Acid (a non-prohibited substance) cannot serve as a basis for discipline.

B. The Legal Consumption of Marijuana Out-of-Competition Is Not Prohibited.

1. *WADA Makes Two Important Limitations For Marijuana.*

WADA is an independent agency monitoring drug use in sports and has promulgated an International Standard. See WADA's Prohibited List attached as Exhibit "B." The NSAC, as well as other regulatory bodies, have adopted the International Standard classifying prohibited substances in categories of "in-competition," "out-of-competition" and "in particular sports." Id; See NAC 467.850 (2)(f) (any drug identified by WADA on its *Prohibited List* is "adopted by reference").

Such substances as anabolic steroids, growth hormones (GH) and diuretics are prohibited "at all times" compared to marijuana which is prohibited only "in-competition." Id. In evaluating marijuana, WADA permits such use "out-of-competition" but prohibits such use "in-competition." The category for ***Substances Prohibited In-Competition*** includes:

> **S8. CANNABINOIDS**
>
> Natural (e.g. cannabis, hashish, marijuana) or synthetic delta 9-tetrahydrocannabinol (THC) and cannabimimetics [e.g. "Spice" (containing JWH018, JWH073), HU-210] are prohibited.

[2] NSAC has permitted exemptions for many pharmaceutical drugs with longer-lasting and more serious effects than marijuana such as opioids and anti-depressants. Notably, DIAZ stopped using medical marijuana eight (8) days before the fight and, therefore, did not seek an exemption.

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Id.

Notably, WADA's International Standard does not prohibit marijuana metabolite in ***any*** category. In part, WADA recognizes the long detection period associated with marijuana metabolites may extend weeks and even months after consumption.[3] See Affidavit of John Hiatt, Ph.D. and Curriculum Vitae attached as Exhibit "C." In addition, marijuana metabolite is not a psychoactive substance and not classified by the Pharmacy Board as a Schedule I or II substance. By way of adopting WADA's International Standard, the NSAC should similarly find that the presence of Carboxylic Acid is not a prohibited substance.

2. *NSAC Adopts WADA's Limitations.*

The NSAC has adopted the two limitations promulgated by WADA: (1) marijuana is prohibited only "in-competition"; and (2) excluding marijuana metabolites as a prohibited substance. See NAC 467.850 (2)(f). The evaluation by WADA finds a substance prohibited only if it meets two of the three criteria::

(1) It has the potential to enhance or enhances sport performance;

(2) It represents an actual or potential health risk to the athlete;

(3) It violates the spirit of sport

See Exh. "A."

Mr. Diaz's general practice of discontinuing medical marijuana eight (8) days before a fight eliminated the possibility of any behavioral and psychological effects associated with the

[3] Edward J. Cone & Marilyn A. Huestis, Relating Blood Concentrations of Tetrahydrocannabinol and Metabolites to Pharmacologic Effects and Time of Marijuana Usage, 15 Therapeutic Drug Monitoring 527 (1993); Marilyn A. Huestis & Edward J. Cone, Differentiating New Marijuana Use From Residual Drug Excretion in Occasional Marijuana Users, 22 J. Analytical Toxicology 445, 453 (1998); Marilyn A. Huestis et al., Blood Cannabinoids II: Models for Prediction of Time of Marijuana Exposure from Plasma Concentrations of <<DELTA>>^{9}-Tetrahydrocannabinol (THC) and 11-nor-9-carboxy-<<DELTA>>^{9}-tetrahydrocannabinol (THCCOOH), 16 J. Analytical Toxicology 283, 287-89 (1992); One study reported detection seventy-seven days after use at a cutoff level of 20ng/mL THCCOOH. Huestis et al., Detection Times, at 444.

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active ingredient of marijuana (THC) which typically lasts a few hours.[4] See Exh. "A" and "C." As it relates to the marijuana metabolite at issue, there is no medical or scientific evidence to support that Carboxylic Acid is performance enhancing or unsafe. As such, there is no policy advanced by prohibiting marijuana metabolite resulting from legal consumption eight (8) day before the fight.

3. *The Long Detection Window Makes Marijuana Different from Other Prohibited Substances.*

The active ingredient of marijuana (THC) upon ingestion is immediately circulated throughout the body where it is preferentially absorbed by fat tissues because of its chemical properties.[5] See Exh. "C". THC resulting from the regular use of medical marijuana is typically sequestered for long periods of time.[6] Id. In this post-fight urine test, the presence of Carboxylic Acid may have been elevated by two additional physiological factors not present in recent fights: (1) the increased physical exertion associated with five rounds compared to much shorter fights of 2011 *e.g.*, Evangelista Santos (2 rounds), Paul Daley (1 round) and B.J. Penn (3 rounds); and (2) DIAZ's uncharacteristic ten pound weight loss compared to an average weight loss of two pounds the day before weigh-ins. Id. The interplay of these physiological factors together with the long detection time for medical marijuana users further explains why WADA (and by adoption NSAC) does not consider metabolites as a prohibited substance.

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[4] The behavioral and psychological effects of THC are perceptible within minutes of smoking marijuana; they achieve their peak within ten to thirty minutes, last roughly two hours, and are mostly gone within three to five hours. U.S. Dep't of Transp., Drugs and Human Performance Fact Sheets (2004); Metabolites Marilyn A. Huestis et al., Detection Times of Marijuana in Urine by Immunoassay and GC-MS, 19 J. Analytical Toxicology 443, 444 (1995) [hereinafter Huestis et al., Detection Times].

[5] See Huestis *et al.*, Blood Cannabinnoids I at 276.

[6] See U.S. Dep't of Transp., at 91.

III.

CONCLUSION

In WADA's view, as adopted by the NSAC, marijuana consumption "out-of-competition" and marijuana metabolites in general, are not considered performance enhancing or unsafe. The policy reasons making such limitations is even more persuasive when detection of marijuana metabolites results from the legal use of medical marijuana eight (8) before the fight. As such, Mr. Diaz did not test positive for a prohibited substance under NAC 487.850 and it is submitted should not be subject to any discipline.

Dated this 5 day of March, 2012.

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EXHIBIT "A"

AFFIDAVIT OF NICK DIAZ

STATE OF CALIFORNIA)
: ss.
COUNTY OF SAN JOAQUIN)

COMES NOW, NICK DIAZ, and being first duly sworn, swears and deposes as follows:

1. I have been diagnosed with Attention Deficit Hyperactivity Disorder ("ADHD").
2. My physician, Robert E. Sullivan, M.D., (CA License G31309), approved the use of medical marijuana to treat ADHD.
3. I am in full compliance with the registry laws for medical marijuana in California.
4. As part of my general practice, I discontinue using medical marijuana eight (8) days before a fight.
5. Consistent with this general practice, I discontinued use of medical marijuana eight (8) days before the fight which is the subject of this Complaint.
6. The day before weigh-ins, I had to lose a substantial amount of weight (10 pounds).
7. In addition, this five round fight required increased physical exertion compared to the three (3) shorter fights of 2011.

Nick Diaz
NICK DIAZ

SUBSCRIBED and SWORN TO before me this 15 day March, 2012.

Lori L. Penney
NOTARY PUBLIC in and for said County and State.

LORI L. PENNEY
COMM. # 1873599
NOTARY PUBLIC - CALIFORNIA
SAN JOAQUIN COUNTY
COMM. EXPIRES DEC. 18, 2013

EXHIBIT "B"

WORLD
ANTI-DOPING
AGENCY

The World Anti-Doping Code

THE 2012 PROHIBITED LIST

INTERNATIONAL STANDARD

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 January 2012

The 2012 Prohibited List
24 August 2011

THE 2012 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2012

In accordance with Article 4.2.2 of the World Anti-Doping Code, all *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2, S4.4, S4.5, S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the List and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g drugs under pre-clinical or clinical development or discontinued, designer drugs, veterinary medicines) is prohibited at all times.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol); **1-androstenedione** (5α-androst-1-ene-3,17-dione); **bolandiol** (estr-4-ene-3β,17β-diol); **bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione); **calusterone; clostebol; danazol** (17α-ethynyl-17β-hydroxyandrost-4-eno[2,3-d]isoxazole); **dehydrochlormethyltestosterone** (4-chloro-17β-hydroxy-17α-methylandrosta-

1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-nor-17α-pregn-4-en-17-ol); **fluoxymesterone; formebolone; furazabol** (17β-hydroxy-17α-methyl-5α-androstano[2,3-c]-furazan); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metenolone; methandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **methandriol; methasterone** (2α, 17α-dimethyl-5α-androstane-3-one-17β-ol); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-hydroxy-5α-androstano[3,2-c] pyrazole); **quinbolone; stanozolol; stenbolone; 1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (18a-homo-pregna-4,9,11-trien-17β-ol-3-one); **trenbolone;** and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA); **testosterone**
and their metabolites and isomers, including but not limited to:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **epi-dihydrotestosterone; epitestosterone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 7α-hydroxy-DHEA ; 7β-hydroxy-DHEA ; 7-keto-DHEA; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:
** "exogenous" refers to a substance which is not ordinarily capable of being produced by the body naturally.*

** *"endogenous" refers to a substance which is capable of being produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances and their releasing factors are prohibited:

1. **Erythropoiesis-Stimulating Agents** [e.g. **erythropoietin (EPO), darbepoetin (dEPO), hypoxia-inducible factor (HIF) stabilizers, methoxy polyethylene glycol-epoetin beta (CERA), peginesatide (Hematide)];**

2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** in males;

3. **Insulins;**

4. **Corticotrophins;**

5. **Growth Hormone (GH), Insulin-like Growth Factor-1 (IGF-1), Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF)** as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists (including both optical isomers where relevant) are prohibited except salbutamol (maximum 1600 micrograms over 24 hours), formoterol (maximum 36 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regime.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 30 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4. HORMONE AND METABOLIC MODULATORS

The following are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to: **raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

5. **Metabolic modulators: Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516), PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR)**

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, desmopressin, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol), probenecid;** and other substances with similar biological effect(s). Local application of felypressin in dental anaesthesia is not prohibited.

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene**; and other substances with a similar chemical structure or similar biological effect(s) (except drospirenone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

The use *In-* and *Out-of-Competition,* as applicable, of any quantity of a substance subject to threshold limits (i.e. formoterol, salbutamol, morphine, cathine, ephedrine, methylephedrine and pseudoephedrine) in conjunction with a diuretic or other masking agent requires the deliverance of a specific Therapeutic Use Exemption for that substance in addition to the one granted for the diuretic or other masking agent.

PROHIBITED METHODS

M1. ENHANCEMENT OF OXYGEN TRANSFER

The following are prohibited:

1. Blood doping, including the use of autologous, homologous or heterologous blood or red blood cell products of any origin.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering,* or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Control* is prohibited. These include but are not limited to urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period are prohibited except for those legitimately received in the course of hospital admissions or clinical investigations.

3. Sequential withdrawal, manipulation and reintroduction of any quantity of whole blood into the circulatory system.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of nucleic acids or nucleic acid sequences;

2. The use of normal or genetically modified cells.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants (including both optical isomers where relevant) are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2012 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amiphenazole; amphetamine; amphetaminil; benfluorex; benzphetamine; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; dimethylamphetamine; etilamphetamine; famprofazone; fencamine; fenetylline; fenfluramine; fenproporex; furfenorex; mefenorex; mephentermine; mesocarb; methamphetamine(*d*-); p-methylamphetamine; methylenedioxyamphetamine; methylenedioxymethamphetamine; modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; 4-phenylpiracetam (carphedon); prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Adrenaline; cathine***; ephedrine****; etamivan; etilefrine; fenbutrazate; fencamfamin; heptaminol; isometheptene; levmetamfetamine; meclofenoxate; methylephedrine****; methylhexaneamine (dimethylpentylamine); methylphenidate; nikethamide; norfenefrine; octopamine; oxilofrine; parahydroxyamphetamine; pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tuaminoheptane;** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2012 Monitoring Program (bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradol, synephrine) are not considered as *Prohibited Substances*.

** Local administration (e.g. nasal, ophthalmologic) of **Adrenaline** or co-administration with local anaesthetic agents is not prohibited.

*** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.

**** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.

***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural (e.g. cannabis, hashish, marijuana) or synthetic delta 9-tetrahydrocannabinol (THC) and cannabimimetics [e.g. "Spice" (containing JWH018, JWH073), HU-210] are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (ethanol) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold (haematological values) is 0.10 g/L.

- Aeronautic (FAI)
- Archery (FITA)
- Automobile (FIA)
- Karate (WKF)
- Motorcycling (FIM)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Aeronautic (FAI)
- Archery (FITA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Boules (CMSB)
- Bridge (FMB)
- Darts (WDF)
- Golf (IGF)
- Ninepin and Tenpin Bowling (FIQ)
- Powerboating (UIM)
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

EXHIBIT "C"

AFFIDAVIT OF JOHN HIATT, Ph.D.

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

COMES NOW, JOHN HIATT, Ph.D., and being first duly sworn, swears and deposes as follows:

1. I received a Ph.D. from Yale University in the field of organic chemistry and have been qualified in state and military courts as an expert in organic chemistry to include the testing of bodily fluids for drugs and toxic substances (see attached CV).

2. The legalization of marijuana by several states in recent years, including Nevada, presents a challenge for both athletes and regulators in sporting contests that include urine drug tests.

3. The active compound in marijuana, Delta-9-Tetrahydrocannabinol (THC), is rather unique among pharmaceuticals in that it has quite limited solubility in aqueous solutions but is very soluble in oils and fats, including the fatty tissues of the human body.

4. DIAZ did not test positive for marijuana (Delta-9-Tetrahydrocannabinol (THC)).

5. Due to this unusual property (solubility in fatty tissues), the time interval between ingestion and elimination is prolonged and not easily predictable since it depends on multiple variables, including amount of drug ingested, frequency and duration of ingestion, body fat content and metabolic turnover of body fat stores.

6. DIAZ experienced two physiologic factors which were losing a substantial amount of weight prior to the fight and the increased physical exertion associated with a five round fight compared to previous shorter fights that may have contributed to the elevated presence of inactive metabolites.

7. The most common testing protocol for detecting illegal use of performance enhancing drugs by athletes is a pre and/or post-contest urine drug test. In the case of marijuana the compound detected by the testing procedure is Delta-9-THC-Carboxylic Acid, which is the pharmacologically inactive metabolite of THC.

8. Since the metabolite may be detectable in the urine for days or even weeks after cessation of use of THC it is not a reliable indicator of current or even recent use.

9. Prior to legalization this was not an issue since detection of the metabolite was an automatic rule violation with no valid excuse. The advent of the World Anti-Doping Association ("WADA") and the concept of "in-competition" and "out-of-competition" drug use has also complicated the issue of marijuana use since the metabolite is detectable in the urine for (in some cases) weeks after any pharmacologic effect of the parent drug has ceased.

10. A post-fight urine test for THC metabolite is not a sufficient or proper means of determining whether an individuals' prior use of THC is in any way affecting that individual at the time a urine sample is collected.

11. If an individual has a valid medical prescription for marijuana in some form, then in view of all the uncertainties associated with interpreting the meaning of the presence of THC metabolite in urine, it is not reasonable to reach any conclusion with regard to a persons ability to compete in an athletic contest.

12. The only logical way to make that determination would be to test a blood sample for the presence of THC. A positive blood test for THC would be an indication of pharmacologic effect at the time of sample collection.

13. In my opinion to a reasonable degree of scientific certainty, the presence of 25 ng/mL of inactive metabolite in DIAZ's post-fight urine sample is consistent with DIAZ's protocol of discontinuing medical marijuana use eight (8) days before a fight. Such a break in usage of marijuana would ensure that his normal usage would have no impact on DIAZ's performance "in-competition" or create a safety risk.

JOHN HIATT, Ph.D.

SUBSCRIBED and SWORN TO before me

this 2 day March, 2012.

NOTARY PUBLIC in and for said
County and State.

NICCOLE MARIE PARKER
Notary Public-State of Nevada
APPT. NO. 05-99591-1
My App. Expires July 07, 2013

John E. Hiatt, Ph.D.

8180 Placid Street
Las Vegas, NV 89123
(702) 361-1171

Biographical Information

Education:

1963 A.B., Occidental College, Los Angeles, California
Major: Chemistry

1968 Ph.D., Yale University, New Haven, Connecticut
Field: Organic Chemistry

1968-1970: Postdoctoral Fellow, Department of Chemistry, Stanford University, Stanford, California

1971-1973: Postdoctoral Trainee in Clinical Chemistry, University of California Medical Center, San Francisco, California

Employment:

1973-1976: Clinical Chemist, Valley Clinical Laboratory, Palm Desert, California

1976-2003: Technical Director, Associated Pathologists Laboratories Las Vegas, Nevada

2003-2007: Clinical and Forensic Chemist, Quest Diagnostics, Las Vegas, Nevada (Quest Diagnostics is successor Company to Associated Pathologists Laboratories)

2008-present: Partially retired, on-call employee at Quest Diagnostics, Las Vegas, Nevada

Other Relevant Information:

Qualified as an expert witness in the areas of analysis of drugs and poisons in materials of human origin and interpretation of data pertaining thereto in the District Courts of Clark, Douglas, Elko, Lyon, Mineral, Nye and Washoe Counties, Nevada, and Air Force Courts (Nellis Air Force Base, Luke Air Force Base and Los Angeles Air Force Base).

Independent Consultant: Forensic Chemistry

AFFIDAVIT OF NICK DIAZ

STATE OF CALIFORNIA)
: ss.
COUNTY OF SAN JOAQUIN)

COMES NOW, NICK DIAZ, and being first duly sworn, swears and deposes as follows:

1. I have been diagnosed with Attention Deficit Hyperactivity Disorder ("ADHD").
2. My physician, Robert E. Sullivan, M.D., (CA License G31309), approved the use of medical marijuana to treat ADHD.
3. I am in full compliance with the registry laws for medical marijuana in California.
4. As part of my general practice, I discontinue using medical marijuana eight (8) days before a fight.
5. Consistent with this general practice, I discontinued use of medical marijuana eight (8) days before the fight which is the subject of this Complaint.
6. The day before weigh-ins, I had to lose a substantial amount of weight (10 pounds).
7. In addition, this five round fight required increased physical exertion compared to the three (3) shorter fights of 2011.

Nick Diaz
NICK DIAZ

SUBSCRIBED and SWORN TO before me
this 6th day March, 2012.

Lori L. Penney
NOTARY PUBLIC in and for said
County and State.

LORI L. PENNEY
COMM. # 1873599
NOTARY PUBLIC - CALIFORNIA
SAN JOAQUIN COUNTY
COMM. EXPIRES DEC. 18, 2013