



7 March 2013

Elen Perdikogiannis  
GM Anti-Doping Programs and Legal Services  
Australian Sports Anti-Doping Authority  
PO Box 1744  
FYSHWICK ACT 2609

By email: [Elen.Perdikogiannis@asada.gov.au](mailto:Elen.Perdikogiannis@asada.gov.au)

Dear Elen

**Re: ASADA Investigation following on from ACC report into Organised Crime and Drugs in Sport (Investigation) – new statement**

I refer to your email dated 7 March 2013 attaching a new statement in relation to the Investigation (**New Statement**).

The wording released by ASADA on 20 February 2013 (**Original Statement**) (as detailed in Annexure A to this letter) was extensively negotiated between the AFL and ASADA, and, in our view, is clear on its face and unambiguous.

Further, the AFL, the Essendon Football Club (and its players and officials), and the AFL Players' Association have all relied upon the **Original Statement** and the Investigation has commenced and is ongoing on the basis of this reliance.

It is the AFL's, Essendon Football Club's (and its players and officials), and the AFL Players' Association's clear understanding that the Investigation and any subsequent actions will be conducted in accordance with your Original Statement.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Gillon McLachlan', written in a cursive style.

**Gillon McLachlan**  
Deputy Chief Executive

**Copy to:** Andrew Demetriou, AFL  
Andrew Dillon, AFL  
Brett Clothier, AFL  
Aurora Andruska, ASADA  
Darren Mullaly, ASADA  
Paul Simonsson, ASADA  
Richard Eccles, Department of Prime Minister and Cabinet

**Australian Football League**



## **ANNEXURE A – ASADA Statement of 20 February 2013**

### **AUSTRALIAN SPORT ANTI-DOPING AUTHORITY INVESTIGATION INTO ACTIVITIES AT ESSENDON FC**

ASADA met with you on 18 February 2013 to give you an overview of ASADA's investigation process and of the possible outcomes of the investigation.

Today (20 February 2013) we have come back to you to explain in more detail how the investigation is going to proceed from this point.

To provide an immediate level of comfort for the Essendon players, ASADA has determined the following assistance be given to the Essendon players.

- First, representatives of ASADA will address the players to explain the investigative process and players rights and entitlements should they wish to come forward.
- ASADA will explain to the players that these are exceptional circumstances and the defence of no fault or negligence may be available.
- It will be explained to players that under a *no fault or negligence* defence a player can receive a complete elimination of sanction. (Ultimately whether a player receives the *no fault or negligence defence* or *substantial assistance* will depend on the individual's circumstances).
- Where a player does come forward and provides a sworn statement regarding his involvement and the involvement of any other person, ASADA will fully explore all avenues in an attempt to provide a *no fault or negligence defence* or *substantial assistance*.
- ASADA acknowledges that a significant contributing factor in the consideration of a *no fault or negligence defence*, will be the extent to which players knew or suspected they had used prohibited substances at the instigation of sports science staff and took utmost caution in relation to the treatment they were receiving.
- Where ASADA forms the view that the defence of *no fault or negligence* is available in relation to a particular player, ASADA will support the application of that defence to that player in proceedings before relevant sport tribunals.
- ASADA will assist in providing an expedient process for those players who wish to come forward and give their version of events to assist the investigation.
- The investigation will take its normal course and will not be undermined or compromised.
- Any player that is found to have lied in the sworn statement or deliberately withheld information will be taken to have aggravating circumstances and may face a 4 year ban from sport in addition to having committed perjury.

**Australian Sports Anti-Doping Authority investigation following on from Australian Crime Commission report into Organised Crime and Drugs in Sport (ACC Report)**

ASADA is currently conducting an investigation across sports following on from the publication of the ACC Report. This investigation is complex.

ASADA representatives have, by invitation from sports, addressed player groups to explain the investigation process and players' rights and entitlements should they wish to come forward.

- Should other teams or clubs wish for ASADA representatives to address their player groups, ASADA will do so.
- ASADA will explain to the players as a whole the sanctions and defences (including but not limited to the defence of *no fault or negligence*) that may be applicable under the anti-doping policy of their sport.
- Where a player comes forward to be interviewed and provides a sworn statement regarding his involvement and the involvement of any other person in a possible anti-doping rule violation, ASADA will give favourable consideration to not opposing an application for a reduction based on *substantial assistance*.
- It will be for each player to establish any defence they wish to rely on before a sport tribunal. Where a player seeks to rely on the defence of *no fault or negligence* before a sport tribunal, and ASADA forms the view at the conclusion of its investigation that all the elements of the defence are established in respect of that player, ASADA will give favourable consideration to not opposing an application to rely on this defence at a sport tribunal.
- ASADA will assist sports in providing an expedient process for those players who wish to come forward and give their version of events to assist the investigation.
- ASADA's investigation will take its normal course and will not be undermined or compromised.
- Any player that is found to have lied or deliberately withheld information from investigators about possible anti-doping rule violations will be taken to have aggravating circumstances and may face a 4 year ban from sport in addition to other consequences that might apply.

**From:** [Elen Perdikogiannis](#)  
**To:** [Eccles, Richard](#)  
**Cc:** [Aurora Andruska](#); s 22 s 22 s 22  
**Subject:** Amended Statement to go to s 38 [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 6 March 2013 4:29:53 PM  
**Attachments:** [Statement re No Fault and Negligence 060313.docx](#)

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Dear Richard,

as discussed just now, please find attached revised draft statement. s 42

A few things to note:

- s 38 , we have redrafted it so that it focusses more on the investigation process (providing expedient process, etc);
- s 42
- s 38

Aurora and I are happy to discuss with you as soon as you have read it.

Elen

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**From:** s 22  
**Sent:** Wednesday, 6 March 2013 4:16 PM  
**To:** Elen Perdikogiannis  
**Subject:** Amended Statement - No Fault [SEC=UNCLASSIFIED]

Amended Statement – I will email to s 47F and leave with you to email Richard and s 22 ,

s 22

s 22

Lawyer  
Australian Sports Anti-Doping Authority

T s 22

F s 22

E s 22

W [www.asada.gov.au](http://www.asada.gov.au)

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## **Australian Sports Anti-Doping Authority investigation following on from Australian Crime Commission report into Organised Crime and Drugs in Sport (ACC Report)**

ASADA withdraws the written statement that was provided to the Essendon Football Club on 20 February 2013.

ASADA is currently conducting an investigation across sports following on from the publication of the ACC Report. This investigation is complex, and is expected to take at least several months.

ASADA representatives have, by invitation from sports, addressed player groups to explain the investigation process and players' rights and entitlements should they wish to come forward.

- Should other clubs wish for ASADA representatives to address their player groups, ASADA will do so.
- ASADA will explain to the players as a whole the sanctions and defences that may be applicable under the anti-doping policy of their sport.
- Where a player comes forward and provides a sworn statement regarding his involvement and the involvement of any other person in a possible anti-doping rule violation, ASADA will give favourable consideration to the reduction of the relevant sanction based on *substantial assistance*.
- It will be for each player to establish any defence they wish to rely on before a sport tribunal. Where a player seeks to rely on the defence of *no fault or negligence* before a sport tribunal, and ASADA forms the view at the conclusion of its investigation that all the elements of the defence are established in respect of that player, ASADA will give favourable consideration to not opposing a sport tribunal's consideration of this defence.
- ASADA will assist sports in providing an expedient process for those players who wish to come forward and give their version of events to assist the investigation.
- ASADA's investigation will take its normal course and will not be undermined or compromised.
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**From:** [Elen Perdikogiannis](#)  
**To:** [Eccles, Richard](#)  
**Cc:** [Aurora Andruska](#); s 22 ; s 22  
**Subject:** New statement for s 38 [DLM=For-Official-Use-Only]  
**Date:** Thursday, 7 March 2013 9:08:31 AM  
**Attachments:** [Statement - FINAL.docx](#)

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Dear Richard,

Please find attached new statement. The statement is now a statement that can go to s 38

s 42 . s 38  
[Redacted]  
[Redacted]

s 42  
[Redacted]  
[Redacted]

[Redacted]

s 38  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]

[Redacted]

Once you come back to me, let me know and we can send out to s 38

Elen

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**Elen Perdikogiannis**

GM Anti-Doping Programs and Legal Services  
Australian Sports Anti-Doping Authority

T s 22  
M s 22  
F s 22

E [Elen.Perdikogiannis@asada.gov.au](mailto:Elen.Perdikogiannis@asada.gov.au)  
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ASADA Hotline 13 000 ASADA (13 000 27232)

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