

**SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)  
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)**

NO: SDRCC 18-0344

WILLIAM DUTTON  
(CLAIMANT)

AND

SPEED SKATING CANADA (SSC)  
(RESPONDENT)

AND

JORDAN BELCHOS  
BENJAMIN DONNELLY  
LAURENT DUBREUIL  
(AFFECTED PARTIES)

**Attendees at hearing:**

For the Claimant: William Dutton, represented by Dr. Emir Crowne, Amanda Fowler and Liam McFarlane

For the Respondent: Susan Auch and Scott Maw, represented by Steven Indig

For the Affected Parties: Michaël Bardagi, representing Laurent Dubreuil

## **SUPPLEMENTAL AWARD**

### **Overview**

1. Following my short decision issued January 21, 2018, in which I ordered the Respondent in this matter to reconsider its determination and to provide written reasons, the Claimant applied for an interpretation of the reconsideration the Respondent sent to the Claimant on January 24, 2018.
2. The Claimant argued that the Respondent had unjustifiably committed the Claimant to confidentiality, that the Respondent had failed to follow my instructions, and raised the possibility that the Respondent's Selection Committee member, Ms. Kristina Groves, had a reasonable apprehension of bias.
3. In the circumstances, the Claimant requested that I appoint him to the team. For the reasons that follow, I deny this request.

### **Hearing**

4. The hearing proceeded by conference call on January 25<sup>th</sup>, 2018 at 2:30 p.m. (EST). The Claimant had provided written submissions in advance, while the Respondent and Affected Parties delivered oral arguments.

### **Issues**

5. Has the Respondent unjustifiably applied confidentiality terms on the Claimant?
6. Has the Respondent followed the directions for reconsideration?

### **Position of the Parties**

#### *Claimant*

7. The Claimant submitted that the Respondent had refused to show the award to anyone but the Claimant's lawyer and, after clarification, the Claimant, to the exclusion of everyone including the SDRCC.
8. Regarding the reconsideration itself, the Claimant argued that the Respondent failed to consider my instructions and based on a phrase in the written reasons

indicating that the original decision should stand. Further, the Claimant submits that the Respondent disregarded my order by extending principles of due process and natural justice to Russian Athletes who are currently banned but appealing the decision.

9. The Claimant then raised the reasonable apprehension of bias claim against Ms. Groves.
10. Taken together, the Claimant submits that the Respondent breached my order, and that the lack of time remaining means he should be appointed to the team.

### *Respondent*

11. The Respondent clarified that it had asked the Claimant and the SDRCC for confidentiality owing to their reconsideration being made in the form of meeting minutes which are private documents and that someone had provided the short decision to the press.
12. The Respondent submitted that I did not have jurisdiction to appoint the Claimant to the team at this point or to review the team selection decision.

### *Affected Parties*

13. Counsel for Laurent Dubreuil submitted that I had no jurisdiction to order the Respondent to do anything further with its reconsideration and written reasons. Mr. Dubreuil's counsel submitted that, having directed the Respondent, and the Respondent having submitted reasons to the Claimant, I was *functus officio*.

### **Analysis**

14. This matter concerned the implementation of the award delivered to the parties on January 21<sup>st</sup>, 2018, and nothing else. Any matters raised that do not have to do with the award or are attempts to relitigate the case are beyond the scope of this request for reconsideration. This would include the final decision not to select Mr.

Dutton and the submissions on apprehension of bias. Regarding the matter of confidentiality, I find that the Respondent must upload the written reasons for its reconsideration to the SDRCC portal. Having so ordered, I remind the parties of the SDRCC Code's requirements for confidentiality regarding documents in the SDRCC portal other than any awards that I issue. The parties are barred from sharing documents other than the awards, which are public documents.

15. I was not provided with the Respondent's reconsideration with reasons until after the hearing for the interpretation of the award. Therefore I was unable to determine the validity of the Claimant's complaints regarding the award during the conference call.
16. Turning to the merits of the Claimant's request for interpretation, I was provided the Respondent's meeting minutes describing the reconsideration of its decision following my order. I find that the Respondent comprehensively reconsidered its decision. The Respondent came to the same initial conclusion not to appoint Mr. Dutton and to continue to include the banned Russians' times for comparison. However, it provided extensive reasons explaining how it arrived at that conclusion. The meeting minutes made specific reference to the documents and policies referred to in the short decision, as well as the deliberations taken. As such, I find that the Respondent has satisfied the directions for reconsideration.
17. Whether or not I agree with the final decision in the reconsideration is irrelevant. I agree with the position of the Respondent and the Affected Party that I am *functus officio* and cannot review the Selection Committee's decision now that it has been rendered.

## Order

18. The request for additional instructions regarding the award is denied.

Signed in Ottawa, Ontario this 26th day of January 2018.



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David Bennett  
Arbitrator