



## The Myths and Realities of Conflicts of Interest in Sport

by Marie-Claude Asselin

From grassroots to international level, the occurrence of conflict of interest in sport organizations is unavoidable. A conflict of interest occurs when someone is in a position to make a decision that affects him/herself, a close relative, a business partner, a friend, or even an enemy. So what should we do when entrusted with such a decision? And what should we do when we think that someone else may be in a conflict of interest?

### Myth: People in conflict of interest are bad

**Reality:** Not at all. On the contrary, people often end

#### Perceived, Potential or Real?

**Real Conflict of Interest:** A situation in which a person has a private interest that is sufficient to influence him/her in the exercise of other duties. An example would be a father sitting as member of an internal appeal panel to review a decision previously rendered by his daughter in her capacity as high performance chairperson. The decision-maker (the father) places himself in a situation of conflict of interest because his ruling will have a significant impact on a personal relationship with an immediate family member. One can imagine the ambiance of the next family gathering if the father was to overturn his daughter's own decision. The father here should disclose the conflict and decline the appointment. ■

up in conflicts of interest inadvertently because they are good. Indeed, the "best people", those who dedicate a lot of their time to sport, are competent at what they do, and as a result are asked (or begged) to wear multiple hats within a given sport, are most at risk for finding themselves in conflicts of interest. For example, it is not uncommon that parents or personal coaches of potential team members are found to be on team selection committees; or that experienced sport officials sit on the very same committee that could designate them to officiate at an important competition. Surely their technical knowledge or expertise in that particular sport might justify them being on those committees; however if they do not disclose the conflict of interest and they continue to act despite it, they undermine the legitimacy of the decision-making process and make it vulnerable to appeals. Those who truly are "good people" will recognize and disclose the conflict of interest.

### Myth: Declaring a conflict of interest is like an admission of guilt

**Reality:** A conflict of interest is a situation; it is not something one does nor is something to be ashamed of. Because conflicts of interest arise from the existence of special circumstances that are often out of one's control, disclosing such conflict cannot be construed as an admission of guilt. Evidently, guilt may come afterwards if the situation is not handled properly. The disclosure of a conflict of interest should take place as soon as it is discovered *(continued on page 2)*

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and can be made at anytime, even if the decision-making process is near completion or even after the decision has been made. When people realize that they have been put in a situation of conflict of interest, they would be smart to disclose it themselves and not wait for their integrity to be called into question by someone else. It can only bring them respect.

### **Myth: Pointing out a possible conflict of interest is an accusation**

**Reality:** The answer to this stems from the previous myth. As much as declaring a conflict of interest is not an admission of guilt, pointing out a potential conflict of interest is merely looking out for due process. When individuals in decision-making positions are not properly informed of what a conflict of interest is, they may not even realize that they are in one. In fact, a common test to verify the presence of a perceived conflict of interest is to determine whether a reasonable person not involved in the situation might think that certain factors, unrelated to the issues to be decided, are likely to influence a decision-maker's judgment. As a third party looking in, your point of view may actually contribute to this person realizing the impropriety of acting in such decision-making capacity. Of course, tact is always of the essence in raising any such concerns.

### **Myth: There can't be a conflict of interest if there is no money involved**

**Reality:** This could not be further from the truth. The definition of conflict of interest goes well beyond the potential for pecuniary gain. It may include such concepts as friendship, love, envy, ambition, or prestige. Whenever the decision-maker has something to gain, whether financial, material or emotional, from a particular outcome (as opposed to another outcome) of the issue to be decided, conflict of interest is present.

### **Myth: I can still be objective**

**Reality:** A lot of people tend to think so but that is unlikely to be. We are all human beings and true objectivity requires complete independence; that is, total disinterest for the outcome. Some individuals will be so cautious as to favor, in case of a "close call", the outcome that goes against what their conflict of interest would suggest. That is not an act of courage or nobility; it is purely a disservice to fairness for the person on the receiving end of the decision. Even if you maintain that you can be objective, it is simply not for you to decide. That determination belongs

to the people who are in a position to be affected by your decision.

### **Myth: If nobody finds out, it's OK**

**Reality:** People engaged in cheating, doping, collusion or corruption, do it to gain an unfair advantage with the hopes of never getting caught. If someone does find out that you were in conflict of interest and did not disclose it, then it is your own credibility that is in jeopardy. Moreover, it will cast doubt on the objectivity of the decision-making process and embarrass the entire organization on behalf of which you are acting. Is it really worth the risk? People who think so should ask themselves what makes it worth the risk; if the answer has anything to do with their desire to control the outcome of the decision-making process, they should seriously reconsider their motives for being involved in sport.

### **Myth: If you're in conflict of interest, you should automatically remove yourself**

**Reality:** Withdrawal is not always the only solution. Different situations may cause conflicts of interest of various degrees of importance, some of which may not justify such a drastic move. In some cases, individuals who will be affected by your decision may actually trust that you are, despite the perceived or real conflict, the best person to be making it. The seriousness of the issues at hand can also impact whether the conflict of

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### **Perceived, Potential or Real?**

**Potential Conflict of Interest:** Refers to a conflict of interest that is foreseeable but not yet real. This may occur for example if a personal coach is named a member of the Olympic team selection committee of his NSO, with a strong possibility that his top athlete will be vying for a spot on that team. At this stage, it is still a *potential* conflict because we are unsure whether the athlete's performances will lead her to even be considered for the team. If however the athlete in question is successful in meeting minimum criteria and becomes a candidate for consideration by the committee, the conflict will become *real*. The personal coach would then be advised to declare the conflict and leave the meeting when the committee will discuss the selection of his athlete. Because potential conflicts can be anticipated, arrangements may be made in advance to facilitate disclosure and removal without too much disruption in the process. ■



## The Myths and Realities of Conflicts of Interest in Sport *(continued)*

interest could be disregarded by the individuals involved. For example, a teenager acting as referee in a U-5 exhibition soccer game in which his younger brother plays may not raise an eyebrow. On the other hand, a mother sitting on the carding committee that will determine if her son will receive thousands of dollars in direct funding is of much greater concern. If you recognize yourself to be in a situation where your objectivity can be brought into question, the first thing to do is to disclose it. Being upfront about the facts that may have an effect on your ability to be impartial will enable the people potentially affected by your decision to determine whether those facts create a real concern for them. Prompt and full disclosure allows people to judge the potential negative impact on them if you remain in that decision-making capacity. If they are given an opportunity to object and they expressly agree that you remain the decision-maker, you and only you will then have to decide whether you think you can remain objective.

**Myth:** It's all about individuals being honest.

**Reality:** Let's not pretend that managing conflict of interest is all about how each honest individual should behave. Members of a sport organization act as they are told to act; they are also deemed to be acting in good faith within the boundaries of their knowledge. So if your organization does not have a clearly articulated and communicated policy on conflict of interest, you are in the wrong as much as individuals who unknowingly act in conflict of interest on your behalf. Your conflict of interest policy should guide your members, minimally, on the following elements: what is a real or perceived conflict of interest, how should one recognize a conflict of interest, and how should one react in such situation. Because most people in a given sport community know each other or at least know of each other, it is important for your sport organization to foster a culture that makes it acceptable to

### Perceived, Potential or Real?

**Perceived Conflict of Interest:** When there is a reasonable apprehension that a conflict of interest exists. This means that someone may reasonably think that there is a conflict of interest even though there may not be one at all. Disclosure of facts and circumstances at the origin of that person's beliefs may uncover a real conflict, a potential conflict, or no conflict at all. In our example, the Board of a sport club recently awarded a contract to the IT company of a fellow Board member to redesign the club's website. Any reasonable person looking in would find this suspicious. Upon verification of the facts, it was discovered that: 1) the Board member in question had sent advance notice to the Board that her company would respond to the request for proposals; 2) she was never provided with copies of the proposals received and she left the meeting before the proposals were assessed; 3) a blind evaluation took place during which the Board selected the lowest bid without knowing it was from their colleague's company; 4) upon announcement of the contract award, the Board member in question made arrangements with her accountant to ensure that any revenue from this contract would be split equally between her other two business partners so that she would not personally benefit from the contract. In this case, while there was a *potential* conflict of interest, all precautions had been taken to ensure that there was no *real* conflict of interest. ■

declare conflicts of interest and that deals appropriately with them

Unfortunately, all the preventive work and education does not eliminate the possibility that situations arise where conflicts of interest are not properly recognized or disclosed. If you are negatively affected by a decision that is tainted with a potential or real conflict of interest on the part of the decision-maker, you may have grounds to have this decision reviewed. You should be informed of your right to appeal such decision, either through your sport organization's internal appeal process or through other dispute resolution services such as those of the SDRCC. ■

### Notable Dates:

- **November 8-9, 2011:** The SDRCC will be present with a Kiosk at the SPIN Summit (Toronto, Ontario)
- **November 9-10, 2011:** SDRCC staff will be in attendance at the Sport Leadership Conference (Toronto, Ontario)



## Enhanced Partnership with Coaches of Canada

The SDRCC is pleased to announce that it has extended its partnership with Coaches of Canada, the organization that represents the profession of coaching in Canada. This initiative will help ensure that Coaches of Canada members are aware of the dispute prevention and resolution services available to them, through increased exposure to SDRCC and its resources.

Along with continued contribution to the Coaches Plan magazine, the SDRCC is currently developing a publication specifically directed at coaches and addressing disputes that may arise in their coaching environment. The SDRCC looks forward to working with Coaches of Canada to find new ways to inform and support to its members.



*“The broad range of service offerings from the SDRCC provides a complete dispute resolution package for our coach members. We are very happy to partner with the SDRCC and to provide this service to our members.”* Wayne Parro, CEO of Coaches of Canada ■

### 2012 SDRCC Arbitrator and Mediator Conference

The 2012 SDRCC Arbitrator and Mediator Conference will be held at the Westin Calgary, March 1-3, 2012. This year’s conference promises to be an engaging and informative event and once again a portion of the program will be open to members of the public. The public session will be held on Friday, March 2. Be sure to check our website [www.crdsc-sdrcc.ca](http://www.crdsc-sdrcc.ca) for conference program and registration information. Places are limited! ■

Open to the Public

### On the Sidelines

**CMP full steam ahead:** Following several months of refinement, the Case Management Portal that was launched at the beginning of the year is now fully functional. All new cases filed with SDRCC since mid-September are managed from this portal which significantly increases the efficiency of communications and provides to all parties involved easy access to their cases’ information.

**Renovated Office Space:** During the summer, the SDRCC office was renovated to accommodate the creation of a new position. If you get an opportunity, come visit us and to see our new space! ■

### Mid-Year Statistics of the Secretariat

Here is a snapshot of the cases managed by the Dispute Secretariat of the SDRCC during the first six months of the current fiscal year:

- 20 new cases since April 1, 2011;
- 10 of these cases are related to doping;
- 10 cases were filed to the Ordinary Tribunal, the majority of which are carding and team selection disputes;
- Resolution services have been provided to members of 15 different sports;
- **50%** of non-doping cases were resolved by a settlement agreement between the parties. ■



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