



Introduction

- Claimant:** Shooting Federation of Canada (SFC)
- Respondent:** Canadian Olympic Committee (COC)
- Affected Parties:** Sharon Bowes, Clayton Miller, Tye Bietz
- Type of Dispute:** Selection to 2004 Summer Olympic Games
- Arbitrator:** John P. Sanderson, Q.C.
- Date of Decision:** May 3rd, 2004



Dispute Summary

The Shooting Federation of Canada (SFC) argued on behalf of three of its athletes to have the Selection Agreement for the 2004 Summer Olympic Games reopened and amended. The three athletes were:

- Sharon Bowes in the Women's 3-Position Rifle and Women's Air Rifle;
- Clayton Miller in the Men's Skeet; and,
- Tie Bietz in the Men's Trap.





Background Facts

On April 19th, 2002, the COC Board of Directors, which includes representatives of all National Sport Federations (including the Shooting Federation of Canada), approved a new team selection policy. To qualify, an athlete would have to demonstrate a "distinct probability" of achieving a Top-12 finish at the 2004 Summer Olympic Games in Athens.

After ten months of discussion and negotiation, "Schedule A" of the Team Selection Agreement was signed by the SFC and the COC on June 30th, 2003.

"Schedule A" specified the qualification criteria that had to be achieved by the SFC athletes in order to be eligible for Canada's 2004 Summer Olympic Team.



Background Facts (cont'd)



At the Pan American Games in August 2003, the three athletes did not meet the “Schedule A” criteria.

On August 25, 2003, the SFC wrote to the COC requesting that “Schedule A” be set aside so that the athletes could become eligible to be named to the Athens Games.

The COC responded that “Schedule A” was a binding agreement and that it could not be waived.



Claimant's Position

The Shooting Federation's case was based on the following arguments:

- That a negotiating "mistake" was made by the SFC when it agreed on the wording of "Schedule A" and that the federation representatives did not fully appreciate the consequences of what they had signed;
- That the COC analysis was statistically flawed;
- That it was in the interest of all parties that "Schedule A" be revised so the three athletes could be made eligible for the Games; and,
- That an alternative Schedule should be substituted that would assess the athlete's personal attributes as well as their historical performance.





Respondent's Position

The COC's case was based on the following arguments:

- “Schedule A” was the result of lengthy negotiations involving five separate drafts plus a number of changes and amendments specifically requested by SFC and agreed to by the COC; and,
- That “Schedule A” was negotiated and agreed to and that there was no legal or factual basis to permit either party to escape from the contract they had signed.





Arbitrator's Analysis

While the athletes expressed the view that the COC may have acted in bad faith, misrepresented information, abused their position of authority and acted in breach of an alleged fiduciary relationship, arbitrator John P. Sanderson could find no evidence to support these claims:

“I do not doubt the sincerity of the feelings of the athletes that they were somehow misled and that the agreement that was enforced against them is flawed and should be rescinded. While I respect their feelings, this is not sufficient basis for me to set aside the agreement between their association and the COC.”

Mr. Sanderson further concluded that poor communication between the SFC and its athletes may have been at the root of much of their frustration.

Ultimately, the arbitrator concluded that “Schedule A” was a binding and enforceable agreement that should not be set aside.



Ruling

The appeal was denied.



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ADRsportRED judgment.



Lessons Learned

1. The role of the arbitrator is not to rewrite a contract duly negotiated by the parties but to make sure that the agreement represents the intention of all parties and that it is applied fairly; and,
2. In this case, “Schedule A” was a contractual agreement binding the parties which could not be put aside simply because three of the athletes were unable to meet the stated criteria.

