

COMMERCIAL ARBITRATION TRIBUNAL

In the Matter of the Arbitration Between *

EROL A. TUEMER *

AND *

U.S. BOBSLED FEDERATION. *

AWARD OF ARBITRATOR

CASE NUMBER: 13-E-199-1099-87 *

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Arbitration Agreement entered into by the above-named Parties, and having been duly sworn, and having duly heard the proofs and allegations of the Parties, do hereby FIND as follows:

- A. This arbitration was commenced by the claimant, Erol Tuemer, pursuant to Article IX of the United States Olympic Committee Constitution. It is not disputed that the tryouts for the United States Olympic bobsled team are to be held beginning one week from today in West Germany.
- B. The respondent, the U.S. Bobsled and Skeleton Federation, Inc., has taken disciplinary action against the claimant on two different grounds, the effect of which is to suspend the claimant from the Federation for six months beginning September 1, 1987. As a result of the suspension, the claimant will not be eligible to compete in next week's tryouts and, thus, will be denied the right to compete in the 1988 Winter Olympics in Calgary.
- C. The issue framed by the parties for resolution is whether the suspension by the Federation unfairly denies claimant the opportunity to compete. The parties agree that this arbitration does not constitute a review of the severity of the sanctions imposed, or of the right of the Federation to punish its members, but rather deals only with the question of the fairness of the result, i.e., the effective denial of claimant's right to participate in the Olympic tryouts.
- D. The claimant's guilty plea to the misdemeanor of criminal Mischief, 4th degree, does not justify excluding this athlete from consideration as a member of the U.S. Olympic team especially given the circumstances (i.e., his disappointment and frustration) attendant to the April, 1987 annual meeting of the Federation.

E. The second charge against the claimant also arises out of the same April, 1987 circumstances and the Federation points to no specific rule of conduct which would make the conduct of the claimant illegal or even violative of any objective standard or rule.

I therefore AWARD, as follows:

1. Given the absence of any established specific rules of conduct or any guidelines as to the exercise of the Federation's disciplinary powers and weighing the respective harm to the Parties, EROL A. TUEMER, hereinafter referred to as TUEMER, is hereby granted the relief requested in that the U.S. BOBSLED FEDERATION, hereinafter referred to as FEDERATION, has unfairly denied TUEMER the right to compete in the 1988 Winter Olympic tryouts.
2. The administrative fee and expenses of the American Arbitration Association totalling TWO HUNDRED SEVENTY FIVE DOLLARS (\$275.00), shall be borne entirely by the FEDERATION. Therefore, the FEDERATION shall pay to TUEMER the sum of TWO HUNDRED DOLLARS (\$200.00), representing that portion of the fees and expenses previously advanced by TUEMER to said Association and the FEDERATION shall pay to the American Arbitration Association the sum of SEVENTY FIVE DOLLARS, (\$75.00) representing that portion of the fees and expenses still due said Association.

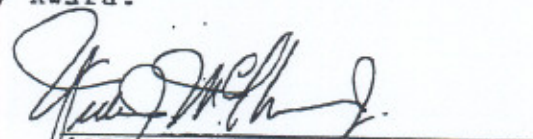
This Award is in full settlement of all claims submitted to this Arbitration.


WILLIAM J. MCSHERRY, JR./DATED

STATE OF NEW YORK)
) ss.:
COUNTY OF N.Y.

I, WILLIAM J. MCSHERRY, JR., do hereby, affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

9-30-87
(DATED)


(SIGNATURE OF ARBITRATOR)