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**AMERICAN ARBITRATION ASSOCIATION**

In The Matter of Arbitration Between:

RUTH DAVIDON, MONICA TRANEL,  
MICHINI, CAROL SKRICKI, AND  
ELIZABETH SMITH,

Complainants,

vs.

THE UNITED STATES ROWING  
ASSOCIATION,

Respondent,

and

JENNIFER DORE, HILARY GEHMAN,  
LAUREL KORHOLZ, AND KELLY  
SALCHOW,

Respondents.

AAA Case No. \_\_\_\_\_

**FINDINGS OF FACT AND  
FINAL AWARD OF ARBITRATOR**

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1 **I. Background**

2 This matter was heard by the undersigned on Monday, August 21, 2000, commencing at  
3 9:00 a.m. at the arbitrator's offices located at 550 West "C" Street, Suite 1500, San Diego,  
4 California 92101. The arbitration was conducted in accordance with the Commercial Dispute  
5 Resolution Procedures of the American Arbitration Association, in accordance with the applicable  
6 rules governing this dispute.

7 Claimants Ruth Davidon, Monica Tranel Michini, Carol Skricki, and Elizabeth Smith  
8 (hereinafter "Davidon Quad") were represented by Michael Wukmer, Esq., Kristine Gerard, Esq.  
9 and John Thornberg, Esq. of the law firm of Ice Miller, Indianapolis, Indiana.

10 Respondent United States Rowing Association ("USRA") was represented by Alan  
11 McLaughlin, Esq. and Suzette Bewley, Esq. of the law firm of Baker & Daniels, Indianapolis,  
12 Indiana.

13 Respondents Jennifer Dore, Hilary Gehman, Laurel Korholz, and Kelly Salchow  
14 (hereinafter "Salchow Quad") were represented by Christopher L. Campbell, Esq. of the law firm  
15 of Kenney & Markowitz, L.L.P., San Francisco, California.

16 Prior to the hearing, the Davidon Quad timely filed and submitted their Complaint, with  
17 exhibits. That document was reviewed by the arbitrator. Also prior to the hearing, USRA and  
18 Salchow Quad each submitted a pre-hearing brief. Both were also reviewed by the arbitrator.  
19 Each party made opening statements by and through their respective counsel.

20 During the hearing, sworn testimony was provided by the following persons:

- 21 1. Frank Coyle, Executive Director, U.S. Rowing Association;  
22 2. Igor Grinko, Head Coach, U.S. Rowing Association;  
23 3. Dr. Ronald Chen, Secretary, U.S. Rowing Association and Assistant Dean, Rutgers  
24 University School of Law (via telephone);  
25 4. Ted A. Nash, Assistant Coach, U.S. Rowing Association;  
26 5. David Gleeson, Assistant Coach, U.S. Rowing Association;  
27 6. Ruth Davidon, M.D., Claimant, Davidon Quad;  
28 7. Elizabeth Smith, Claimant, Davidon Quad;

- 1 8. Mark Sniderman, Program Manager, U.S. Rowing Association;
- 2 9. Harmut Buschbacher, Womens Eight Event Coach (via telephone);
- 3 10. Brett Johnson, Communications Director, U.S. Rowing Association (via telephone);
- 4 11. Jennifer Dore, Respondent, Salchow Quad;
- 5 12. Laurel Kurholz, Respondent, Salchow Quad;
- 6 13. Thomas Terhaar, coach of Salchow Quad and husband of Respondent Dore;
- 7 14. Hillary Gehman, Respondent, Salchow Quad.

8 The matter was considered fully submitted upon the conclusion of all final arguments of  
9 counsel, at approximately 6:45 p.m., on August 21, 2000.

## 10 II. THE ISSUE TO BE DECIDED

- 11 1. Is the Davidon Quad improperly being denied the right to participate as a member of  
12 the U.S. delegation in the Women's Quadruple Scull at the 2000 Summer Olympic Games in  
13 Sydney, Australia, due to the actions of The United States Rowing Association?
- 14 2. If so, what is the appropriate remedy?

## 15 III. ARBITRATOR'S FINDINGS

- 16 1. USRA timely established selection procedures for the 2000 Olympics. In addition,  
17 Head Coach Igor Grinko timely published his criteria for selection. No challenging teams were  
18 entered and no trial was held for the Women's Quadruple Scull event (hereinafter "Quad Event").
- 19 2. As a Category "B" event, the Quad Event participants are to be "selected at the coach's  
20 discretion" subject to eight stated factors. The factors are:

- 21 a. 2000 U.S. Nationals results
- 22 b. 2000 Speed Order results
- 23 c. Performance at the 2000 Identification Camps
- 24 d. Performance at the 2000 Pre-Elite Camps
- 25 e. Competition results during the 2000 season
- 26 f. 2000 National Team Testing results and other trials held throughout the year
- 27 g. Athletes ability to match the style and technique of the crew as determined by the  
designated coach
- 28 h. Physical and physiological characteristics, e.g. height, weight, and VO<sub>2</sub>mMaz

1 Some of the factors were not applicable, some of the factors required discretion and some  
2 of the factors were capable of objective determination. The coach may give each factor the weight  
3 believed to be appropriate.

4 3. The coach's discretion is not absolute. It is governed by two important elements: first,  
5 the eight factors that, to the extent applicable, must be considered, and, second, the United States  
6 Olympic Committee requirement that "All proposed discretionary selections must be finally  
7 approved by another committee of the NGB" (National Governing Body). Here the appropriate  
8 NGB is USRA.

9 4. Head Coach Igor Grinko's Employment Agreement, covering the period January 1,  
10 1999, until December 31, 2000, states at Section 3(b) that his role in national team selection is  
11 to "prepare proposals for selection."

12 5. Coach Grinko, in accordance with Section 3(a) of his Employment Agreement, is also  
13 "responsible for the performance" of the team in competitions, specifically including the 2000  
14 Olympic games. In accordance with Section 2, Coach Grinko is required to "give his best efforts  
15 to faithfully carry out the duties identified in this Agreement." In accordance with Section 10,  
16 Coach Grinko is to be evaluated annually based on his performance and under Section 15, renewal  
17 of the contract is "dependent on Grinko's performance".

18 6. In his efforts to carry out his duties and responsibilities to the USRA, Coach Grinko  
19 has, from time to time, made promises to athletes for the stated purpose of motivating them to  
20 train harder and, hopefully, perform better. Coach Grinko believes that any such promise made  
21 to the Salchow Quad in June, 2000, should be analyzed within such a context.

22 7. In mid-June, 2000, Coach Grinko was faced with the likely defection of at least two  
23 highly qualified, experienced and competent Quad Event competitors. Both expressed their  
24 serious intention to leave and compete for places on the Women's Eight-Person Scull Crew,  
25 coached by another person. It was within this context that Coach Grinko made the promise that  
26 represents the core of this dispute.

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1 8. The Salchow Quad and USRA contend as follows:

2 a. that on June 12, 2000, Coach Grinko promised the entire Salchow Quad that  
3 if they stayed with the team and finished at least third at the Lucerne International Competition  
4 Event in July, 2000, or finished fourth, but were "fighting for a medal", he would name the  
5 Salchow Quad as the nominee to the USOC for the 2000 Olympic Games; and

6 b. that they would not be required to attend altitude training as a condition of being  
7 named to the Olympic team.

8 This specific promise was testified to by several witnesses, including Mark Sniderman, Thomas  
9 Terhaar and members of the Salchow Quad.

10 9. The Davidon Quad and Coach Grinko contend as follows:

11 a. that Coach Grinko did not make the promise claimed;

12 b. that even if some promise was made, it was not complied with by the Salchow  
13 Quad; and

14 c. that even if some promise was made to the Salchow Quad and even if  
15 compliance was accomplished, the promise should not be considered binding because to do so  
16 would prevent the fastest U.S. team from competing in the Quad Event at the 2000 Olympics.

17 10. Based on what they believed was Coach Grinko's promise, the Salchow Quad  
18 remained, continued to train, and went to Lucerne to compete in the Quad Event on behalf of the  
19 United States. They finished third in the competition on July 16, 2000.

20 11. Immediately following the Lucerne competition, Coach Grinko advised the Salchow  
21 Quad they would be required to attend altitude training as a condition of remaining in competition  
22 for the Olympic Team. The Salchow Quad did not attend this altitude training session, although  
23 they had attended the requested altitude training on two prior occasions this year.

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1 12. From the e-mail sent July 24, 2000, to all of the coaches from Mark Sniderman,  
2 Program Manager, U.S. Rowing, it is evident that Sniderman, a person present at the June 12,  
3 2000, meeting and knowing about the Lucerne third place finish, believed that the Quad Event  
4 team had already been selected. The e-mail at paragraph 1 does not ask Coach Grinko to submit  
5 the Quad Event names by a date certain and, at paragraph 4, Tom Terhaar is identified as the  
6 coach for the Quad Event.

7 13. Coach Grinko, by Memorandum dated August 1, 2000, strongly disagreed with the  
8 position that the Salchow Quad, to be coached by Tom Terhaar, had been selected.

9 14. On August 1, 2000, and August 2, 2000, members of the Executive Committee of  
10 USRA discussed this matter and it was their unanimous opinion that the Salchow Quad should be  
11 named as the United States participants for the Quad Event. By letter dated August 9, 2000,  
12 Coach Grinko was informed of this action, as were numerous other persons, including all  
13 members of the Davidon Quad and the Salchow Quad.

14 15. By letter dated August 14, 2000, Coach Grinko submitted his official notification to  
15 USRA of the nomination of the Davidon Quad, stating, in pertinent part, that they are "the fastest  
16 and most talented U.S. Women's Quadruple Skull I have ever coached. Based on comparable  
17 racing times, I believe they have an excellent chance to win a gold medal for the United States at  
18 the Olympic Games."

19 16. The official Complaint of the Davidon Quad was filed August 15, 2000.

20 17. The American Arbitration Association has full authority and jurisdiction to hear and  
21 determine this Complaint.

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#### IV. DISCUSSION OF ISSUES

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2 Even for world class athletes, the path to the Olympics is filled with uncertainty. Those  
3 dreams can be shattered by an injury, rendered unreachable by the passage of time, or fall victim  
4 to a untimely mistake.

5 Yet, despite the great possibility of such heartbreak, month after month, year after year,  
6 athletes world-wide pursue this path, and such has been the case for longer than anyone now living  
7 can recall. Their journey, in great measure, is guided and determined by coaches that they need  
8 to respect and trust.

9 And although national pride often focuses on medals won, and coaches and national  
10 programs have their success judged by team performance, the Olympic Games are about the  
11 athletes, and sportsmanship, competition and the spirit of fair play by those that have been given  
12 the honor and privilege of participating.

13 The promise made by Head Coach Grinko to the Salchow Team was more than a  
14 motivational tool. It was a necessary device to keep at least two world class athletes from  
15 abandoning the Quad Event and competing for positions on the Women's Eight Event team. The  
16 Salchow Team was not given anything; they were provided, by their Head Coach, in response to  
17 a direct inquiry, a fair opportunity as a team to earn the right to be named to the 2000 Olympics  
18 Quad Event by successfully competing in the only international Quad Event in 2000 prior to the  
19 Olympics itself. Their Head Coach was free to define this success in any way he chose.

20 Had Coach Grinko conditioned the promise on the Salchow Quad finishing first, or being  
21 "competitive for first" in Lucerne, the Salchow Quad might not have stayed and competed. But  
22 we will never know because that wasn't the promise. Following the June 12, 2000, promise,  
23 with hard work, dedication and confidence, the Salchow Quad succeeded in finishing third at the  
24 Lucerne International competition, thereby satisfying the only condition stated for being named  
25 to the 2000 Olympics as the U.S. Quad Event Team.

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1 The promise to the Salchow Quad was in sharp distinction from representations made by  
2 Coach Grinko to other athletes. Claimant Davidon, for example, testified that Coach Grinko, told  
3 her she would "have a shot at being selected" and he was "positive and optimistic". Claimant  
4 Davidon also testified that Coach Grinko "made Monica (Tranel Michini) feel very welcome" and  
5 "encouraged her to work out", and that he was "positive about Carol" (Skricki). Such were  
6 properly considered encouragements and motivational comments, not specific performance - based  
7 promises, intended to influence an athlete's choice of alternate Olympic athletic opportunities.

8 But by late July, 2000, Coach Grinko wanted a different team named, the Davidon Quad,  
9 believing them superior to the Salchow Quad. No head-to-head competition has ever been held  
10 between the two teams. No reliable objective comparison was offered to support the claim of  
11 superiority. Coach Grinko relied upon the "ERG" test results and the informal competition of  
12 both quads against a men's double team, (at different times, in different waters, under different  
13 circumstances) to conclude that the Davidon Quad is approximately ten seconds faster in the 1500  
14 meters than the Salchow Quad. Perhaps they are, perhaps not.

15 The unchallenged testimony of Frank Coyle was that the Salchow Quad had the fastest time  
16 in competition of any U.S. female quad team this year. Further, it was the performance of the  
17 Salchow Quad in Lucerne in the 1999 World Championships that earned the United States the  
18 right to compete in the event at the 2000 Olympics. This was, therefore, a proven, experienced,  
19 successful quad team for the United States.

20 Furthermore, as pointed to by USRA and the Salchow Quad, the effects of "doubling"  
21 remains an unknown factor in truly determining the fastest quad. Three members of the Davidon  
22 Quad will be competing for the United States in other sculling events, some in close proximity to  
23 the Quad Event, so their focus, training and physical efforts may be divided. (The fourth Davidon  
24 Quad team member is going to the Olympics as an alternate.) How this "doubling" will effect  
25 performance is a factor that USRA was also entitled to consider in determining which quad team  
26 presented the best opportunity for success during the Olympic Games.

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1 If the rules all along were solely that the four participants in the fastest boat, or the four  
2 strongest women, go to the Olympics in the Quad Event, then the Salchow Quad and all of the  
3 other competitors should have been told that in June, 2000, or earlier, so that they could evaluate  
4 their Olympic opportunities accordingly. No one, not even a world class coach with the  
5 exceptional qualifications and accomplishments of Head Coach Grinko, should be permitted to use  
6 a specific promise to knowingly induce detrimental reliance and then change or recant the promise  
7 without consequences.

8 In this case, USRA correctly determined that the right thing to do was to honor Coach  
9 Grinko's promise. When it acted to name the Salchow Quad, USRA had sufficient facts to  
10 analyze and evaluate the dispute, render a decision that was fair, logical and appropriate, and  
11 reach a decision that was within the scope of its authority, in good faith, in a manner that was  
12 entirely consistent with the rules and regulations under which it exists. The parties may disagree  
13 about whether or not each of the specific requirements were precisely followed, but such  
14 disagreements do not give rise to a finding of a flawed process or an inequitable result.

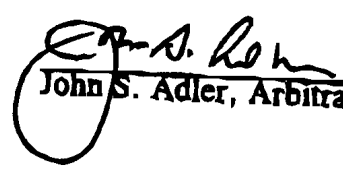
15 **V. FINAL AWARD**

16 Having carefully considered the evidence and testimony which was submitted and the  
17 arguments which were made, I find that:

- 18 1. the claim of the Davidon Quad, Complainants herein, is denied in its entirety; and  
19 2. the parties are each ordered to bear their own costs and attorneys fees.

20 DATED: August 22, 2000

21 Respectfully submitted,

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23 John S. Adler, Arbitrator  
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