

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

SDRCC NO. 14-0215

ALEXANDRE LYSSOV
(CLAIMANT)

AND

CANADIAN FENCING FEDERATION
(RESPONDENT)

ARBITRATOR

JANE H. DEVLIN

REPRESENTATIVES:

FOR THE CLAIMANT:

DR. EMIR CROWNE

FOR THE RESPONDENT:

ANNIE BOURGEOIS

The Claimant, Alexandre Lyssov, is an international-level fencer in the junior category. He contests the decision of the Canadian Fencing Federation (“CFF”) not to allow him to participate in the 2014 Junior Pan-American Championships and 2014 Junior World Championships, if he is otherwise qualified, because he is not a member of the High Performance Program (“HPP”).

I was appointed as Arbitrator in this case on January 6, 2014 and a conference call to deal with administrative and preliminary matters was held that day. During the call, the parties agreed that the claim would be determined by way of a documentary review and both parties subsequently provided written submissions in support of their positions. No affidavits or “will say” statements were filed because it was agreed that such documents and any potential witnesses would confirm the facts set out in each party’s submissions.

There is some urgency to my decision because the deadline for the CFF to select athletes for the Junior Pan-American Championships is January 23, 2014. The CFF maintained that in order to be eligible to compete in this event and in the 2014 Junior World Championships, an athlete must be a member of the HPP. Although there was also an issue between the parties regarding the Claimant’s right participate in a Junior World Cup event in Bale, Switzerland on January 18, 2014, in view of time constraints, the CFF agreed, as a provisional and conservatory measure, to allow the

Claimant to register and participate in the event. It did so without prejudice to its position that the Claimant should not be accepted to the HPP.

The Claimant submitted that the CFF decided not to select him for the HPP for a number of reasons. Firstly, it was contended that the CFF improperly relied on past disciplinary infractions. Secondly, it was contended that the decision was motivated by bias or improper motives. Thirdly, it was contended that there are no published criteria for membership in the HPP and that there was a lack of transparency in the decision-making process.

Dealing firstly with the issue of published criteria for the selection of athletes to the HPP, I was advised that the official start date of the fencing season is September 1st of each year. The cadet and junior programs typically run from October to April and the senior program runs from November to July or August. At the beginning of each season, the CFF publishes a cadet & junior handbook (referred to as the "junior handbook") and a senior handbook. In this case, the junior handbook was initially published in August, 2013 and amendments to the handbook were published in September, November and December, 2013. The senior handbook was initially published in October, 2013 and an amendment was published in November, 2013.

The CFF advised that the purpose of the handbooks is to establish criteria for the selection of athletes to the different HPPs and to establish selection criteria for participation in various competitions. The CFF also advised that the handbooks are

reviewed and amended annually by the Weapon Leaders, with input from high performance coaches across the country, to reflect the CFF's high performance plan and objectives. The handbooks are then reviewed by the High Performance Advisory Committee ("HPAC") prior to being published. The CFF reserves the right to make changes to the handbooks and advised that changes may be necessary to ensure that the information is accurate and up-to-date and to enable it to select the best teams possible for various competitions and HPPs.

I was provided with the junior and senior handbooks that were published in August and October, 2013, respectively, as well as amendments to those handbooks. Having reviewed the initial and amended version of the senior handbook, it is clear that the amendment did not relate to the requirements for the HPP set out in the handbook.

With regard to the junior handbook, I note that in the initial version that was published in August, the selection criteria for the 2014 Junior Pan-American Championships included a requirement that the athlete had been accepted to the HPP by a specified date. With regard to the 2014 Junior World Championships, the handbook provided that an athlete who had competed in the 2013 Senior World Championships and achieved a certain standing would automatically be selected for the event provided that he or she continued to follow the Weapon Leader's approved

training and competition plan. For the remaining athletes, the selection criteria included a requirement that the athlete had been accepted to the HPP by a specified date.

In September, 2013, the selection criteria for the 2014 Junior Pan-American Championships was amended to refer to athletes who competed in the 2013 Senior World Championships and achieved a certain standing so as to be consistent with the selection criteria for the 2014 Junior World Championships. For the remaining athletes, there continued to be a requirement that they be members of the HPP. The CFF advised that the amendment referred to was made before any selection events took place and subsequent versions of the handbook contained the same requirement.

Although the Claimant contended that membership in the HPP is not a *bona fide* requirement for participation in the Junior Pan-American Championships or Junior World Cups, he relied, in part, on the fact that the CFF allowed him to participate in the Junior World Cup in Bale, Switzerland on January 18, 2014. As noted previously, however, the CFF agreed to his participation in that event as a provisional and conservatory measure without prejudice to its position that he should not be accepted to the HPP.

Although the Claimant also contended that there are no published criteria for the HPP in the junior handbook, the CFF submitted that, as in the previous season, the criteria for the HPP are set out in the senior handbook. In this regard, the senior handbook sets out qualifications for the 2013-2014 HPP for the Senior National A Team

and the Senior National B Team. The handbook provides that Senior National A Team members will focus primarily on participating in Senior World Cup, Grand Prix events and other competitions designated by the respective Weapon Leader. The handbook provides that Senior National B Team members will focus on gaining international experience at North American Cups, French and German Circuit Competitions and Satellite World Cups.

In terms of qualifications for the 2013-2014 HPP, the senior handbook provides that an athlete must meet one of a number of specified performance-based criteria in order to be eligible to apply for the Senior National A Team or for the Senior National B Team. The handbook also provides that during the course of the season, additional athletes may be added to each Team provided that they meet certain performance-based criteria. In the case of the Senior National B Team, the handbook also specifies that the Weapon Leaders may invite additional athletes to join the Team who they believe have demonstrated the potential for future international success.

Under the heading, "HPP Application Procedures", the senior handbook includes the following:

NOTE: The Weapon Leader will have final approval regarding all selections to the HPP. An athlete's application may be rejected for a number of reasons including, but not limited to:

1. failure to attend any mandatory training camps during the 2012-2013 season;
2. Failure to report their training activities on a regular basis as directed by the Weapon leader during the 2012-2013 season; or

3. violated the CFF code of conduct during the 2012-2013 season.

Although the handbook refers to athletes applying to join the HPP, the CFF advised that Weapon Leaders also extend invitations to athletes to join the Program as a result of their having met the performance-based criteria set out in the senior handbook. In addition, invitations are extended as a result of the exercise of the Weapon Leader's discretion to invite promising athletes to join the Senior National B Team. The CFF advised that Weapons Leaders often exercise their discretion to invite junior athletes to join the HPP.

In late October, 2013, invitations were extended to a number of athletes to join the HPP. The CFF advised that as only four junior athletes achieved any of the performance-based criteria for the Senior National A Team or the Senior National B Team, the invitations extended to most of the junior athletes were based on the exercise of the Weapon Leaders' discretion.

As the CFF pointed out, there are criteria for the HPP set out in the senior handbook. These criteria include many references to the senior team and senior events and the CFF may want to consider clarifying the application of these criteria to athletes in the junior category. As noted above, the CFF also advised that only four junior athletes met any of the performance-based criteria contained in the senior handbook. In these circumstances, one may question the extent to which such criteria practically apply to those athletes. In my view, this is also a matter which the CFF

ought to consider but it is not a matter in respect of which I have sufficient information to draw a reliable conclusion, nor is it necessary to do so for purposes of this case.

The Claimant was not one of the junior athletes invited to join the HPP for the 2013-2014 season. In an email message to the Claimant from David Howes, Weapon Leader Epee, dated November 1, 2013, Mr. Howes advised that the decision was due to the Claimant’s violations of the Code of Conduct at the 2013 Junior World Championships. In this regard, Mr. Howes’ email message provides as follows:

After much consideration the decision was made to not invite you to the HPP for this season due to your violations of the CFF code of conduct at the 2013 Junior World Championships in Croatia. While I recognize that you are a talented fencer, there is much more to being a successful high performance athlete than simply what takes place on the piste. My goal is to build a strong and sustainable high performance epee program with dedicated athletes who are prepared to live the life of a high performance athlete, and will not behave in a way that jeopardizes their performance and that of their teammates. Your behaviour in Croatia indicates to me that you are not yet prepared to do this.

I hope that in the future you will fully understand that your behaviour and actions off the piste are just as important as what you do on the piste so that you can become a valuable member of our senior team.

The 2013 Junior World Championships, which were referred to in Mr. Howes’ email message, began on April 7, 2013. Prior to the event, the Claimant signed the Code of Conduct form which included the following:

Expectations

...

II. Specific:

...

- c) Commitment - Take part in all required team functions and meetings. Also, participants who are no longer involved in the competition, should make it a practice to observe succeeding rounds, including the finals.
- d) Alcohol - If under legal drinking age, refrain totally from the use of all alcoholic beverages. If over the legal drinking age, avoid alcohol consumption to a level which would reasonably be expected to impair performance and/or result in disruptive or unsafe behaviour.
- i) Curfew - Respect curfew times set by coaches/manager and be particularly sensitive disturbing behaviour during designated "quiet times".

Consequences

At the discretion of the CFF High Performance Committee and/or the Board of Directors, and in consultation with those parties involved in the incident, the following consequences may be applied if expectations are not met:

1. Written or verbal reprimand
2. Requirement of verbal or written apology
3. Removal from the event
4. Restriction from participation in future events
5. Restriction from funding opportunities
6. Revocation of CFF membership

With regard to the Claimant's conduct at the 2013 Junior World Championships, both parties submitted an email message from Monica Peterson, the High Performance Co-ordinator dated April 12, 2013. The message, which was sent to the Claimant and a number of representatives of the CFF, summarized a meeting that took place that day. The message refers to the Claimant having been advised on a number of occasions of the rules and expectations that would apply and having been warned after he breached curfew on two occasions. The message indicates that the Claimant was advised that in the event of a further breach, sanctions would be imposed. The next morning, it was discovered that the Claimant was not in his hotel

room at 1:30 a.m. in circumstances where he had not advised any team manager or Weapon Leader of the need to leave the hotel. Ms. Peterson's email message indicates that the Claimant's whereabouts was unknown and that he did not attend training that was scheduled that morning. When asked at the meeting if he had anything to say, the Claimant apologized for his actions and indicated that he had gone to a friend's hotel around midnight and then proceeded to the venue in the morning. The Claimant was advised that he would be removed from the event and that he would be sent home.

Shortly after Ms. Peterson's email message, Caroline Sharp, the Executive Director of the CFF, sent an email message to the Claimant officially informing him that he would be sent home from the Junior World Championships due to repeated violations of the Code of Conduct. In her message, Ms. Sharp stated that despite being warned verbally and in writing that breaching curfew would result in sanctions, he repeated the behaviour. The Claimant's father, however, objected to the Claimant being sent home on the basis that it was not one of the consequences listed in the Code of Conduct. In the end, the Claimant returned to Canada as initially scheduled.

In addition to the email messages from Ms. Peterson and Ms. Sharp, the CFF submitted a summary of the events involving the Claimant at the 2013 Junior World Championships, which was prepared by Mr. Howes. The summary is dated April 14, 2013 and refers to the Claimant and other athletes having been advised of the rules

that would apply during the event as well as possible consequences for a violation of the rules. It was specified that the consequences could involve repercussions for future team activities. The summary then refers, among other matters, to the Claimant's failure to attend a meeting on April 9th and his failure to meet the group at the hotel for transportation to the venue. In one case, this delayed a coach's arrival at the venue for an elimination match. The summary also refers to the Claimant's curfew violations and to the meeting of April 12th, which was referred to in Ms. Peterson's email message during which the Claimant was advised that he would be removed from the event and sent home.

Mr. Howes' summary concludes with a recommendation that the Claimant be removed from the senior and junior HPP immediately and that he be suspended from participating in any junior and senior national team projects, competitions or other activities for one calendar year, up to and including the 2014 Junior World Championships. Mr. Howes also recommended that a formal report be sent to the Ontario Fencing Association and the Toronto Fencing Club. It is not clear to whom Mr. Howes' summary was provided and I note that no further action was taken against the Claimant at the time.

On November 2, 2013, the Claimant responded to Mr. Howes' email message of November 1st expressing regret for his actions at the 2013 Junior World Championships and describing his behaviour as dismal. However, the Claimant maintained that he had been punished for his conduct by being removed from the team

event. He also maintained that if the CFF was of the view that he should not be a member of the national team, he ought to have been advised earlier as he had competed in events since that time. The Claimant also referred, among other matters, to his ranking and asked Mr. Howes if he would reconsider his decision.

Mr. Howes responded to the Claimant's email message by advising that the decision was made after much consideration and was consistent with the recommendations that he had made to the CFF after the incidents in Croatia. He also advised that he had asked Ms. Sharp to present the Claimant's case to the HP Committee for review. Mr. Howes indicated that he didn't know when the review would take place but that he would update the Claimant when he had more information.

On Friday, December 13, 2013, Ms. Sharp sent an email message to the Claimant indicating that a sub committee of HPAC had reviewed his situation and agreed with the CFF decision not to invite him to join the HPP due to his violations of the Code of Conduct at the 2013 Junior World Championships. In this regard, Ms. Sharp's email message provides as follows:

Dear Alex,

A sub-Committee of the CFF High Performance Advisory Committee has reviewed your situation and agrees with the CFF decision to not invite you to the High Performance Program (HPP) this season due to your code of conduct violations at the 2013 Junior World Championships. Being a member of HPP is a privilege and not a right and that is why all members are invited and required to sign athlete agreements and submit training plans.

Alex you are a talented fencer and we certainly hope to have you as part of our High Performance program in the future. With limited resources, the CFF needs

to focus on fencers that are serious about training and competing, and ready to wear the maple leaf with pride in International competition. Your attitude to our staff and disrespect of the code of conduct last year created multiple distractions to our team and program. We are not willing to risk having that behaviour repeated again this year. We sincerely hope that you will take this time away from the program to demonstrate that you are serious about fencing for Canada and willing to positively change your behaviour and attitude towards our coaches and program.

The Claimant took issue with a number of comments contained in Ms. Sharp's email message and there was an exchange of email messages between the two.

Based on Ms. Sharp's email message, the Claimant submitted that HPAC agreed with the decision not to invite him to the HPP. The Claimant further submitted that it appeared that the CFF decides which athletes to invite to join the HPP and that HPAC serves in an advisory capacity. It was contended that this process is consistent with the certain provisions of the junior handbook which specify that the Committee "will ratify the final selections". In this regard, reference was made to the following provisions of the junior handbook:

HIGH PERFORMANCE ADVISORY COMMITTEE (HPAC)

Caroline Sharp	Executive Director
Dominique Teisseire	Committee Chair
David Howes	NT - Weapon Leader - Epee
Paul ApSimon	NT - Weapon Leader - Foil
Stephanie Hamel/Benjamin Manano	NT - Weapon Leader - Saber

CFF Committees are being re-established. HPAC Committee members will be announced in September, 2013.

HIGH PERFORMANCE SELECTION RATIFICATION COMMITTEE

The High Performance Selection Ratification Committee will ratify the final selections. They will ensure that the final team composition proposed by the WL's for all major Championships meets the criteria published in this Handbook. The HPAC for each weapon will consist of:

1. the Executive Director (ED);
2. two (2) or three (3) members of the High Performance Advisory Committee.

The Claimant also submitted that Ms. Sharp demonstrated bias towards him in her email message of December 13, 2013 and that she was a member of the High Performance Selection Ratification Committee. In these circumstances, it was contended that the decision not to invite the Claimant to join the HPP was motivated by bias and/or improper reliance on past disciplinary infractions. The Claimant suggested that problems with the selection process were also typified by the fact that Mr. Howes named a fencer whom he coached to the HPP and then sat on the Committee to ratify his nomination. It was contended that this represented a clear conflict of interest and that, as a result, the selection process could not stand. The Claimant submitted, as well, that there were no minutes of meetings of HPAC, nor were there written decisions. As a result, it was contended that the Committee's decision-making process was immune from scrutiny and the Claimant's natural justice rights were violated.

The CFF maintained that its decision not to invite the Claimant to join the HPP was not influenced by bias or improper motives. The CFF also advised that the decision was made by the Weapon Leader in accordance with the senior handbook and was not based on the process set out in the junior handbook, which was referred to by

the Claimant. The CFF submitted that the portions of the junior handbook referred to by the Claimant pertain to team selection and not to the HPP. It was also contended that the criteria applicable to the HPP are set out in the senior handbook and that Weapon Leaders have the authority to invite athletes to the HPP based on the guidelines established in that handbook. The CFF further advised that HPAC is not normally involved in HPP selections and invitations and that, as the handbooks specify, HPAC only ratifies selections to major championships, such as Pan-American Championships and World Championships.

The CFF also advised that when the Claimant took issue with the decision not to invite him to join the HPP for the 2013-2014 season, Mr. Howes contacted Ms. Sharp to request that a sub-committee of HPAC review his decision. The CFF submitted that the review was undertaken voluntarily and was not required by the senior handbook. The CFF also advised that Ms. Sharp's involvement was limited to contacting Dominique Teisseire, the HPAC Chair, to ask that Mr. Howes' decision be reviewed. According to the CFF, Mr. Teisseire spoke with certain members of the Committee (apart from Mr. Howes) and they all supported the decision that was made. Ms. Sharpe then advised the Claimant of the outcome of the review. The CFF also submitted that Mr. Howes did not meet with HPAC members to ratify his decision. The CFF submitted, as well, that as the review was undertaken voluntarily, the Claimant was not entitled to a written decision and that there was no breach of his natural justice rights.

An allegation of bias is a serious matter and I find that the allegation has not been made out in this case. The submissions of the Claimant suggest that there is some confusion about the process that was followed and, in my view, those submissions emphasize the need to clarify HPP procedures as they apply to junior athletes. Based on the procedure outlined by the CFF, it does not appear that Ms. Sharp was involved in the decision-making process and, in my view, her email message relaying the outcome of the review of a sub-committee of HPAC cannot be regarded as evidence of bias. Moreover, it does not appear that Mr. Howes was involved in the review process or sat as a member of HPAC to ratify a selection decision that he had made.

Although the Claimant also submitted that his natural justice rights were violated and relied on certain decisions which refer to the importance of written reasons for a decision, the Claimant was advised of the reason for the decision not to invite him to join the HPP for the 2013-2014 season. The reason is set out in Mr. Howes' email message of November 1, 2013 and in Ms. Sharp's email message of December 13, 2013. It is necessary, then, to consider the nature of that decision.

It was the submission of the Claimant that the CFF's decision was based on minor curfew infractions at the 2013 Junior World Championships for which a sanction was imposed at the time. In these circumstances, the Claimant submitted that it was improper for the CFF to rely on those infractions as a basis for its decision not to invite him to join the HPP for the 2013-2014 season. It was also submitted that if the

position of the CFF were to prevail, an athlete who was sanctioned for certain misconduct could still be subject to unknown sanctions at some time in the future and that such a position was unreasonable. On a more technical level, the Claimant submitted that the CFF's right to penalize him for infractions at the 2013 Junior World Championships came to an end with the expiry of the Code of Conduct contract in July 2013.

It was the submission of the CFF that in deciding not to invite the Claimant to join the HPP for the 2013-2014 season, Mr. Howes relied not only on the Claimant's violations of the Code of Conduct at the 2013 the Junior World Championships but also on his mediocre results at that event. The CFF contended that Mr. Howes also relied on the Claimant's conduct at the Canada Summer Games, which took place in August, 2013. The CFF submitted that at that event, the Claimant engaged in misconduct similar to the misconduct in which he engaged at the 2013 Junior World Championships. In this regard, the CFF advised that there were four incidents, two of which gave rise to immediate disciplinary measures and in support of this submission, reference was made to an Official Complaint and to the Ontario Team Disciplinary Report. The CFF further submitted that being a member of the HPP is a privilege, not a right and that Mr. Howes' decision was reasonable and justified in the circumstances. The CFF submitted, as well, that in the event an athlete engages in misconduct, it is not unusual for a sports organization to immediately remove the athlete from an event and then once the event is over, to impose a broader sanction for his or her misconduct.

The CFF also submitted that Mr. Howes' decision was consistent with the Code of Conduct signed by the Claimant. Moreover, it was contended that at the 2013 Junior World Championships, athletes, including the Claimant, were advised that a violation of the Code of Conduct could have repercussions for future national team activities. Finally, the CFF submitted that a high degree of deference should be afforded to decisions of experts such as the Weapon Leader and members of HPAC and that an Arbitrator should not intervene, except in the most exceptional circumstances.

Although the CFF contended that there were a number of reasons for Mr. Howes' decision not to invite the Claimant to join the HPP for the 2013-2014 season, there is only one reason set out in his email message of November 1, 2013. In that message, Mr. Howes clearly stated that the decision was "due to" the Claimant's violations of the CFF Code of Conduct at the 2013 Junior World Championships in Croatia. A similar statement is contained in Ms. Sharp's email message of December 13, 2013 in which she advised the Claimant that a sub committee of HPAC had reviewed his situation and agreed with the decision not to invite him to join the HPP that season "due to" his Code of Conduct violations at the 2013 Junior World Championships.

Although the CFF submitted that when read as a whole, Ms. Sharp's email message of December 13th indicates that multiple factors were considered, I cannot accept this submission. While the second paragraph of Ms. Sharp's message

refers to the Claimant's attitude to staff and disrespect of the Code of Conduct the previous year, she was advising the Claimant of the outcome of the review of Mr. Howes' decision. General references to the Claimant's behaviour during the previous season cannot enlarge the grounds or the reason for the decision. As noted previously, in his email message of November 1st, Mr. Howes clearly advised the Claimant that the decision not to invite him to join the HPP for the 2013-2014 season was "due to" his conduct at the 2013 Junior World Championships. I find that the CFF must be held to the reason for the decision which was advanced at the time.

As a result of the Claimant's conduct at the 2013 Junior World Championships, he was removed from the event and although the CFF initially advised that he would be sent home, in the end, he returned home as originally scheduled. As the CFF noted, the Code of Conduct sets out a number of consequences that may apply in the event of a violation, one of which involves a restriction on participation in future events. Moreover, I agree with the CFF that there may be circumstances where, as an interim measure, an athlete who engages in misconduct is removed from a particular event. An investigation may then be conducted and a decision made regarding the full scope of the sanction that is to be imposed. In some cases, the athlete may be restricted from participating in future events. However, in my view, there is an obligation to advise an athlete of the sanction that is to be imposed in a timely manner.

In this case, the CFF removed the Claimant from the Junior World Championships in Croatia on April 12, 2013. Within days, Mr. Howes prepared a summary of the events involving the Claimant and although the summary included recommendations for more significant sanctions, no further action was taken at that time. It was not until November 1, 2013, many months after the Junior World Championships, that the Claimant was advised that there would be further consequences for his conduct at that event. Moreover, although the CFF submitted that athletes, including the Claimant, were advised in Croatia that a violation of the Code of Conduct could have repercussions for future team activities, in my view, statements of that nature are not sufficient. The same may be said of broad statements about the possibility of further measures. An Athlete who violates the Code of Conduct has a right to be advised in a timely manner of the sanction that will be imposed. That way, the athlete knows where he or she stands and, in making decisions about competing in events, can conduct himself or herself accordingly.

As the CFF noted, the senior handbook provides that an athlete's application for the HPP may be rejected for a number of reasons, including violations of the Code of Conduct during the 2012-2013 season. In my view, however, this provision cannot be interpreted in a manner which would relieve the CFF of the obligation to respond to misconduct on the part of an athlete in a timely manner. Accordingly, for the reasons set out, I find that the CFF's decision not to invite the Claimant to join the HPP for the 2013-2014 season due to his violations of the Code of Conduct at the 2013 Junior World Championships was unreasonable and improper.

In the event of such a finding, the CFF submitted that I ought to refer the matter back to it for reconsideration. In this regard, I recognize that the decision in issue related to an exercise of discretion. Nevertheless, I have found that it was unreasonable for the CFF to rely on the Claimant's conduct at the 2013 Junior World Championships as the basis for not inviting him to join the HPP. That was the only reason advanced at the time and the CFF must be held to that reason. Moreover, if I were to remit the matter to the CFF, it would be inappropriate at this juncture for it to affirm its decision based on other factors that it could have relied on in the fall of 2013 and chose not to do so. I note, as well, that there are time constraints involved because the deadline for selecting athletes for the Junior Pan-American Games is January 23, 2014. As indicated previously, acceptance to the HPP is specified as a requirement to be eligible to participate in that event as well as in the 2014 Junior World Championships.

Having regard to these various factors, the appropriate course is to set aside Mr. Howes' decision and, in place of that decision, direct the CFF to permit the Claimant to join the HPP. It is my sincere hope that the Claimant will not view this decision as a form of vindication for his behaviour during the 2012-2013 season but rather as an opportunity to demonstrate that he can be a responsible and committed member of the HPP.

I shall remain seized for purposes of implementation of my decision.

DATED AT TORONTO, this 21st day of January, 2014.

A handwritten signature in black ink, appearing to read "D. H. D.", written over a horizontal line.

Arbitrator