

# INTERNATIONAL SKATING UNION

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Press Release

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## **The Court of Arbitration for Sport Decision of 17 May 2006 Dismissing the Joint Appeal of Sally-Anne Stapleford, Britta Lindgren and Janet Garden**

On March 25, 2003, in the middle of the ISU World Figure Skating Championships in Washington, D.C., a group of individuals carried out a well-prepared, surprise press conference to announce the formation of the "World Skating Federation (WSF).

Appearing or presented at such conference as organizers and supporters of the WSF were certain well-known ISU figure skating officials, including Ronald Pfenning, Jon Jackson, Sally-Anne Stapleford, Donald McKnight, Britta Lindgren, Judith Furst-Tombor and Janet Garden. Also appearing, and introduced as WSF legal counsel, was attorney Melvyn Weiss from the prominent New York law firm, Milberg Weiss Bershad & Shulman.<sup>1</sup>

According to speaker comments at the press conference, website publicity and documents created and distributed by the WSF, the WSF was formed to replace the ISU as the international federation governing the sport of figure skating.

Also on March 25, 2003, Ronald Pfenning sent an urgent fax message to the International Olympic Committee (IOC) President in Lausanne, Switzerland informing him of the WSF initiative and severely criticizing the ISU and its leadership also expressing the belief that the WSF would soon become a member of the Olympic family. This approach did not receive a favorable response from the IOC.

Subsequent to the press conference and a review of the documents distributed and published on the internet by the WSF, the ISU Council charged the above-named persons with breaching the ISU eligibility rules and opened relevant proceedings. After 2 years, during which the alleged offenders were accorded a full opportunity to defend themselves, the Council decided unanimously, on February 1, 2005, that all persons under eligibility scrutiny, except Donald McKnight, should be declared ineligible. The Council decisions were published on the ISU website.

All persons declared ineligible by the 1 February Council decision filed appeals to the ISU Appeal Commission. After a hearing on August 30, 2005 the Commission dismissed their Appeals and upheld the ISU Council decisions.

Three of the offenders, Sally-Anne Stapleford, Britta Lindgren and Janet Garden then appealed to the Court of Arbitration for Sport in Lausanne (CAS) as provided by the ISU Constitution.<sup>2</sup>

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<sup>1</sup> In December of 2003, the WSF, represented by the Milberg, Weiss law firm, filed a lawsuit against the ISU in the Federal District Court in New York for alleged violation of the US anti-trust laws. The suit was dismissed by the Court as requested in a Motion to Dismiss filed by the ISU.

<sup>2</sup> The remaining three offenders, R. Pfenning, J. Jackson and J. Furst-Tombor, did not appeal further to the CAS, and accordingly, the decisions of the Council declaring them ineligible, affirmed by the Appeals Commission, are final.

In their joint appeal, the offenders claimed that:

- the ISU Council had no right to take the loss of eligibility decisions against them,
- the facts did not support the charges,
- ISU rules do not provide a sufficient legal basis to declare them ineligible,
- due process requirements have not been met,
- the offenders only exercised their right to freedom of speech and their actions did not amount to breach of any provision of the ISU Constitution and Regulations.

The ISU in its Reply to the CAS Appeal denied the validity of all arguments claimed in the appeal, introduced into evidence a DVD recording of the 25 March 2003 press conference, and argued in support of the decisions of the Council and Appeal Commission.

The CAS held a hearing in Lausanne on February 28, 2006. All parties were present and represented by legal counsel of their choice.

On May 17, 2006 the CAS issued its Award. Under CAS Rules, Awards in CAS Appeals Arbitration proceedings are public decisions that are available to the media and all interested parties.

The CAS award in the present Appeal Arbitration:

- fully sustains the ISU action imposing a loss of ISU eligibility upon these three former officials as a consequence of their active participation in the foundation of the WSF;
- dismisses their Appeal and
- requires that each of the three Appellants pay the sum of CHF 2000 to the ISU as a contribution toward legal and other costs.

The CAS decision in full is published on the ISU website.

The ISU welcomes with satisfaction the final decision of the CAS recognizing that the ISU has acted properly within provisions of the ISU Constitution and Regulations that are valid under Swiss law.

The award confirms the right of an international sport federation (association) organized under Swiss law ***“not to accept that its constituents are engaging in activities outside the organisation, which are aimed at the impairment and may even destroy that organization”***.

Denying the relevancy of the arguments of the Appellants, the CAS wrote also: ***“What is, however, relevant is the fact that the Appellants participated in certain activities which would have been detrimental and harmful to the Respondent (ISU) if such activities had been successful”***.

Among a number of other important conclusions of the CAS, the award confirms the principle that ***“officials and office holders in the service of the ISU and therewith as persons officially representing the ISU, are particularly obligated to protect the interests of the ISU and to act loyally towards the ISU.”*** This principle, of course, applies in general to any sport federation.

The ISU has made great progress since the Winter Olympic Games in Salt Lake City. The ISU is an active, dynamic organization, composed of 78 Members (National Associations) and operated by elected Office Holders, elected Committees and Commissions, the ISU Staff, Consultants, Advisors and ISU Officials. In a program of dedicated activities, undertaken worldwide during the past four years, the ISU has proven that it is capable of self-reflection and innovation leading to significant improvements and modernization for the benefit of the ISU sports. For example:

After having won a separate and previous legal battle in the CAS respecting the implementation of a more objectively-based judging system for figure skating as approved by the 2002 Congress, the ISU has worked hard to develop that system, a reform vigorously opposed by the WSF group.

The ISU has successfully used the ISU judging System so developed in its Championships and international competitions, and for the recent Olympic Winter Games in Torino, and has created an Officials Assessment Commission to monitor and evaluate the performance of figure skating judges and other Officials administering the system for ISU guidance in determining future assignments.

The ISU has developed an organizational restructuring reform and amended substantially its Constitution, adopted an ISU Code of Ethics and created an elected Disciplinary Commission independent of the Council.

Now, the ISU is preparing for its 51st Congress (26-30 June 2006 in Budapest). The 2006 Congress will address the final implementation of the above-mentioned reforms and certain proposals for changes related thereto, and hold democratic elections to fill all ISU elective positions.

The ISU Council looks with full confidence to the coming future and expresses the hope that the ISU sport disciplines will develop further to keep and even increase the interest and attention of the public and the media.