

**BEFORE THE ISAF DISCIPLINARY
COMMISSION**

CASE 2015/015/DC

IN THE MATTER OF: Chris ATKINS

**RULE 35 COMPLAINT RECEIVED FROM
PETER HUSTON**



DECISION

1 Procedural Aspects

- 1.1 We have been appointed as a Panel of the Disciplinary Commission to consider a complaint dated 2 March 2015 by Mr. Peter Huston against Mr. Chris Atkins, a Vice-President of ISAF. In terms of regulation 35.5 (last sentence) the matter was referred directly to the Disciplinary Commission. Due to a potential conflict of interest by the Chairman of the Disciplinary Commission the Vice-Chairman made the appointment. The Vice-Chairman appointed us, Lance Burger (RSA) as Panel Chairman, Ana Sanchez del Campo Ferrer (ESP) and Prof. Jan Stage (DEN) as the other Panel members to deal with this matter on 26 May 2015. We are therefore exercising our powers, sitting as the Disciplinary Commission, as required by regulation 35.9.
- 1.2 The question before us is whether Mr. Atkins committed “gross misconduct” as contemplated in regulation 35.2. The substance of the allegation against him is that he decided to to serve as a member of the Volvo Ocean Race jury when he had a real and perceived conflict of interest. The answer to this question depends on a number of subsidiary questions, including whether he did in fact have a conflict of interest.

2 Participant status

- 2.1 We considered whether we should grant participant status to the complainant, Mr. Peter Huston, in spite thereof that he did not request to to be granted such status in terms of Rules of Procedure (“RoP”) 6.1

2.2 There is no evidence that Mr. Huston is a participant or otherwise connected with the Volvo Ocean Race. RoP 6.2 gives a discretion to grant such status, if “the potential Participant has a substantial and relevant interest in the outcome of the case (for example, it is the submitter of a Report)”. We are of the view that a person who does not have any interest cannot artificially create such an interest by submitting a report. We therefore found that requirement of having an interest has not been met, and Mr. Huston cannot be granted Participant status.

3 Facts found

We find the following facts.

- 3.1 Chris Atkins is a Vice President of ISAF.
- 3.2 The position of Vice President is a non-remunerated volunteer position.
- 3.3 Mr. Atkins in his capacity as Vice-President has oversight of Office and Administration and the Sailing World Cup.
- 3.4 He was appointed to serve on the jury of the 2014-2015 Volvo Ocean Race. He receives a daily fee and a per diem allowance for serving on the jury.
- 3.5 ISAF has a long term contract with the Abu Dhabi to host the ISAF Sailing World Cup Final.
- 3.6 The Abu Dhabi sponsors an entry in the Volvo Ocean Race.
- 3.7 Mr. Atkins did not have any involvement on behalf of ISAF with the establishment of the relationship between ISAF and Abu Dhabi other than as a member of the Executive Committee.

4 Conclusion

- 4.1 A conflict of interest is defined as follows in the Regulations:
“34.1 A conflict of interest exists when an ISAF Race Official has, or reasonably appears to have, a personal or financial interest, which could affect the official’s ability to be impartial.”
- 4.2 There is no evidence to indicate that Mr. Atkins has or will benefit personally or financially from the relationship between Abu Dhabi and ISAF.
- 4.3 A further question is whether there is a perceived conflict of interest, which, by ignoring it, Mr. Atkins committed “gross misconduct”. We are of the view that, based

on the facts as presented to us, there is not a perceived conflict of interest. We are not aware of any of the competitors or people connected with the event having made such an allegation or complaint, or having raised a concern in this regard. We do not decide under what circumstances it can be gross misconduct to serve as a race official where there is not an actual, but only a perceived, conflict of interest. A bona fide error of judgement will seldom be “gross misconduct”.

- 4.4 We note the ruling of the Conflicts of Interest Working Party dated 8 May 2015 which comes to the same conclusion that Mr. Atkins does not have a conflict of interest in serving on the international jury for the Volvo Ocean Race. We do not rely on the view expressed in that ruling (as we came to the same conclusion on our own), but note that it could not be misconduct for Mr. Atkins to hold the view (and act on that view) that there is no conflict of interest (even if there was) if others, particularly the Conflict of Interest Working Party, held the same view.
- 4.5 We are therefore of the view, based on the facts before us, that there is no evidence that Mr. Atkins committed “gross misconduct”. It is therefore not necessary for us to conduct a further investigation or hold a hearing.

5 DECISION

- 5.1 There is no evidence of gross misconduct by Mr. Chris Atkins and there is no case for him to answer.

6 FURTHER DIRECTIONS

- 6.1 This decision shall be sent to Mr. Atkins and Mr. Huston. They are invited to make representations within three days as to whether this decision should be published to the general public or not.
- 6.2 Until the Panel decides whether the decision should be published it remains confidential.

Lance Burger

Panel Chairman

ISAF Disciplinary Commission

2 June 2015