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# CORRUPTION: ITS IMPACT ON FAIR PLAY

RICHARD H. McLAREN<sup>\*</sup>

## I. INTRODUCTION

A difference between sport and entertainment is the unpredictability of sporting outcomes versus the planned and executed event that provides entertainment. Corruption attempts to alter this equation and make sport more of an entertainment event with a greater certainty of outcome. This equation is altered when corruption is centered on match fixing or gambling; biased refereeing; and, to a similar but different degree, when sporting results are affected by the use of performance enhancing drugs. Corruption, in any of the foregoing forms, robs sport of its essential feature of uncertainty of the outcome and accelerates its spin into the forum of entertainment, and thus it no longer is sport. Corruption gnaws away at the fundamental foundations of sport and therefore of sporting integrity. It becomes essential to protect that integrity to ensure that sport is free from any corrupt influence that might cast doubt over the authenticity and unpredictability of the sporting result.

Integrity is, in a large measure, a perception, although there is a real intangible existence to it.<sup>1</sup> Once lost it is very difficult to ever retrieve. The perception of integrity must be present for the sports enthusiast to believe that the outcome of a sporting competition is genuine.<sup>2</sup> Match fixing, gambling, biased refereeing, and doping have all recently posed serious threats to the integrity of sports. In many parts of the world betting has become a mainstream leisure activity through the use of the internet. Cheating sports personalities can lead to corrupt betting practices, and has been associated

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1. For example, the integrity of professional basketball was tried as a result of the recent betting scandal. Please refer to the discussion on this topic within the match fixing section on pages 20-21 for further analysis.

2. SIR PAUL CONDON, REPORT ON CORRUPTION IN INTERNATIONAL CRICKET (2001), [http://www.yehhaicricket.com/news/eye\\_catchers/top1.html](http://www.yehhaicricket.com/news/eye_catchers/top1.html); BEN GUNN & JEFF REES, ENVIRONMENTAL REVIEW OF INTEGRITY IN PROFESSIONAL TENNIS (2008).

with attempts to fix matches and alter the results of sporting competitions. Nowhere is this truer than in the recent outbreak of scandals in tennis relating to accusations, which are often founded, on betting by players. Biased refereeing, alleged in wrestling, boxing, and women's soccer at the Beijing Olympics, is unfair to the individual players in matches, and is the antithesis of the concept of a fair and impartial observer during play. Doping unfairly enhances the performance of those who engage in such practices, and causes cynicism among the viewing public of the natural abilities of athletes. Each of these forms of corruption will be discussed and analyzed with recent examples of scandals in the international sporting world traced out. The resulting discussion will demonstrate how corruption is gnawing away at the integrity of modern day professional and elite sports. The examples form the backdrop for a discussion of recent proactive measures taken by sports regulatory bodies. The paper will conclude with some further suggestions that may help to improve the integrity of sports.

## II. MATCH-FIXING AND GAMBLING

Integrity in sport is crucial to its success and to the enjoyment of participants and spectators. Sports are a global activity providing entertainment and enjoyment to an international audience who watch with intense passion. There are isolated occasions where the players involved have been tempted to cheat to gain an advantage over fellow competitors. Even such isolated events have, in the past decade, shaken the integrity of some sports and caused severe and serious setbacks. Match fixing is engaged in to benefit some form of gambling on the outcome. No other aspect of sports corruption works so quickly to destroy the integrity of a sport, which often has taken decades to build. Betting on sport, including professional tennis, various events in the Olympic Games, soccer, and basketball, is now an established leisure activity in many parts of the world, and corrupt betting practices can lead to cheating by athletes, referees, and others to fix matches and alter the results of competitions.

### *A. Tennis*

Recently in tennis, reports of match-fixing attempts point towards an undeniable problem that poses a serious threat to the integrity of the sport.<sup>3</sup> In recent years, the international professional tennis regulatory bodies have been aware of this growing concern. The tennis community, along with the international media, has drawn public attention to concerns about the integrity

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3. GUNN & REES, *supra* note 2.

of the sport, especially concerning allegations of players betting on their own and others' matches, and of players "throwing matches" in order to facilitate these corrupt betting practices. There was explosive worldwide media attention when allegations were made against Russian tennis player Nikolay Davydenko, although they were subsequently found by the Association of Tennis Professionals<sup>4</sup> ("the ATP Tour") to be unfounded.

The international media devoted much attention to the investigation relating to betting irregularities concerning an August 2, 2007 match at the Prokom Open in Sopot, Poland, between Davydenko and Martin Vassallo Arguello, an Argentinian tennis player. In an unprecedented move, the British online betting company, Betfair, voided all bets placed on the second-round match between the then 4th in the world, Davydenko, and then 87th-ranked Arguello. Betfair reported it received about seven million dollars (US) in wagers on the match, which was ten times the usual amount for a similar level match, and most of the money was on Arguello to win, even after Davydenko had won the first set 6-2. Arguello won the second set 6-3, and was leading 2-1 in the third when Davydenko retired, stating he aggravated a left foot injury in the second set. Two days after the match, the ATP Tour launched a formal investigation into the suspicious gambling activity. However, after over a year of intense investigation into the case, on September 11, 2008 both Davydenko and Arguello were cleared of any involvement in match-fixing.<sup>5</sup>

Allegations of gambling and match fixing in tennis did not begin with Davydenko, but had surfaced in the past. At Wimbledon in 2006, Betfair reported irregular betting patterns surrounding a first-round match between British wild card player, Richard Bloomfield, and the higher ranked Carlos Berlocq of Argentina, who had lost in straight sets. Berlocq, who was ranked 170 places higher than Bloomfield, lost 6-1, 6-2, 6-2. Most of the bets placed were on Berlocq to lose. The International Tennis Federation (ITF), which oversees Grand Slam tournaments, investigated the matter but found no illicit wrongdoing.<sup>6</sup>

Earlier, in 2003, bookmakers reportedly suspended betting six hours before a match in Lyon, France, between Russian player, Yevgeny Kafelnikov, and Spanish player, Fernando Vicente, after a big wager was placed on Vicente. Vicente, who had been winless for several months, won in straight sets. There was no suggestion that either player was involved in

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4. Formed in 1972 to protect the interests of male professional tennis players.

5. *Davydenko Cleared of Match-Fixing*, BBC SPORT, Sept. 12, 2008, <http://news.bbc.co.uk/sport2/hi/tennis/7612536.stm>.

6. *Officials Look Into Irregular Betting on Match* ESPN.COM, June 28, 2006, <http://sports.espn.go.com/sports/tennis/wimbledon06/news/story?id=2502709>.

wrongdoing, and no investigation was made by the ATP.<sup>7</sup>

Finally, several Russian tennis players were photographed with Alimzhan Tokhtakhounov, a suspected mobster from the former Soviet republic of Uzbekistan, who was accused of fixing the pairs and ice dancing events at the 2002 Salt Lake City Olympics.<sup>8</sup> Photographs of Tokhtakhounov with Yevgeny Kafelnikov, Marat Safin, and Andrei Medvedev were taken off Medvedev's website in 2002 after Tokhtakhounov's arrest. Tokhtakhounov spent nearly a year in an Italian prison, but escaped extradition to the United States in 2003 on the Olympic rigging charges.<sup>9</sup>

Moreover, since August of 2007, and the alleged Davydenko scandal, several players went public with stories of people offering them money to throw matches for gambling purposes. For example, Belgian tennis player Gilles Elseneer stated that he was approached in the locker room at Wimbledon in 2005, and was offered over \$140,000.00 to throw his first round match against Italian player, Potito Starace.<sup>10</sup> Another Belgian player, Dick Norman, admitted that he has been pressed for tips that could be useful to bettors, such as inside information on injuries.<sup>11</sup> Russian tennis player Dmitry Tursunov alleged he was approached twice with bribe offers,<sup>12</sup> while French player Michael Llodra said he hung up on an anonymous call to his hotel room in the summer of 2007 which had encouraged him to "be relaxed" in his next match. The recently retired U.S. tennis player Paul Goldstein stated that he was approached and asked to influence the outcome of a match sometime during the past two years. Finally, British player Arvind Parmar told *The Times* of London that he was offered an unspecified amount of money to throw a lower-level Challenger's series match.<sup>13</sup>

#### i. What Is Being Done?

Since 2003, the ATP Tour has had an arrangement with Betfair and the

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7. *ATP Chief Skeptical of Player Involvement*, ESPN.COM, Oct. 14, 2003, <http://sports.espn.go.com/tennis/news/2003/1014/1637964.html>.

8. For a discussion regarding the outcome of the 2002 pairs figure skating event, see *infra*.

9. *Tennis officials investigate irregular betting on match*, ESPN.COM, Aug. 3, 2007, <http://sports.espn.go.com/sports/tennis/news/story?id=2959748>.

10. *ATP Says Sport Is Clean In Light of Recent Gambling Reports*, ESPN.COM, Sept. 27, 2007, <http://sports.espn.go.com/sports/tennis/news/story?id=3039436>.

11. *Id.*

12. *John Barr, For Davydenko, It's déjà vu Down Under*, ESPN.COM, Jan. 10, 2008, <http://sports.espn.go.com/sports/tennis/aus08/news/story?id=3190154>.

13. Paul Newman, *Murray Attacks Match-Fixing as ATP Gets Tough*, THE INDEPENDENT, Oct. 10, 2007, <http://www.independent.co.uk/sport/tennis/murray-attacks-matchfixing-as-atp-gets-tough-396432.html>.

European Sports Security Association, which covers ten online gambling companies, to provide confidential account information when suspicious betting activity occurs. Additionally, ATP's Tennis Anti-Corruption Program bans all players and "support personnel" from betting on any amateur or professional tennis matches. Rule 7.05 C.1.a of the 2007 ATP Official Rulebook sets out the "corruption offense" of wagering. According to the ATP's rules, players and their personnel cannot bet on any matches, and also cannot "solicit, induce, entice, persuade, encourage or facilitate" anyone else to affect the outcome of matches.<sup>14</sup> The penalty for a wagering offense is determined by the Anti-Corruption Hearing Officer and is punishable under Rule 7.05 G.1.a of the Code. The penalty may include: a fine of up to 100,000 dollars plus an amount equal to the value of any winnings or other amounts received by the player or his player support personnel; ineligibility for participation in any competition or match at any ATP tournament, competition, or other event or activity authorized or organized by the ATP, for a period of up to three years; and permanent ineligibility.<sup>15</sup>

In an effort to describe the issues and reform the sport, the tennis regulatory bodies took the proactive measure of establishing a commission of inquiry. Their report was published in May of 2008, entitled "Environmental Review of Integrity in Professional Tennis."<sup>16</sup> The ATP, the Women's Tennis Association (WTA), the ITF, and the Grand Slam Committee (GSC), comprising the President of the ITF and the Chairman of the four official International Championships of Australia, France, Great Britain and the United States, which are also known, individually and collectively, as the Grand Slams, launched this independent analysis of professional tennis' integrity regulations and procedures, along with the nature of the current threat posed by gambling. The initiative was led by Jeffrey Rees and Ben Gunn, leading sports integrity experts. The Review examined seventy-three matches over the past five years involving suspected betting patterns. Patterns of suspected betting activity have been noted on twenty-seven accounts in two different countries, and there are emerging concerns about some players which would warrant further attention.<sup>17</sup>

The Review strongly suggested a uniform anti-corruption program, with a regulatory structure and an integrity unit.<sup>18</sup> Before the publication of the Review, the regulation of international professional tennis was overseen by

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14. THE 2007 ATP® OFFICIAL RULEBOOK, RULE 7.05.

15. *Id.* Rule 7.05(G).

16. GUNN & REES, *supra* note 2.

17. *Id.*

18. *Id.* at 22-36.

numerous bodies, including the four Grand Slams, the ITF, the ATP, and Sony Ericsson WTA Tour. Each of the international tennis regulatory bodies had their own sets of regulations and codes of conduct. The Review suggested the harmonization of these various regulations and codes of conduct for professional tennis internationally. The principal objective of the Anti-Corruption Programme is to maintain and enhance the integrity of professional tennis worldwide by investigating and, where necessary, prosecuting breaches of the regulations.

Accordingly, on August 23, 2008, the Sony Ericsson WTA Tour, the ATP, the ITF, and the Grand Slam Committees announced the appointment of Jeff Rees as Director of the sport's newly formed Tennis Integrity Unit and the landmark adoption of a uniform Tennis Anti-Corruption Code across the sport.<sup>19</sup> As Director of the Tennis Integrity Unit, Rees is responsible for the development of the unit's intelligence and investigative strategies, as well as the hiring and oversight of core staff. The Unit has global responsibility for the detection and investigation of integrity issues across tennis. Rees reports to a committee of four senior executives representing each of the ATP, the ITF, Sony Ericsson WTA Tour, and GSC. This single, uniform Anti-Corruption Code forms one of the cores of the sport's Tennis Anti-Corruption Programme, and is designed to ensure that a single set of rules, procedures, penalties and investigative processes are applied across all of professional tennis to players, officials, tournament staff, agents, coaches and family members. Under the Code, the most serious corruption offences will be punishable by a lifetime ban from the sport, and those subject to the Code will have a duty to report any information regarding suspected corrupt activities.<sup>20</sup>

Likely influenced by the explosive media attention that Davydenko's alleged scandal created, the ATP began to stringently enforce its anti-corruption rules, leading to a number of players being suspended or fined for betting on both their own matches and the matches of other players. On November 10, 2007, then ranked 124th in the world, Alessio di Mauro was the first player to be sanctioned for betting.<sup>21</sup> He was found to have made 120 bets with an online bookmaker involving approximately 340 ATP matches from November 2, 2006, to June 12, 2007, and was caught as a result of an investigation beginning in April of 2007. Although the bets were made on

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19. *Tennis Governing Bodies Appoint Jeff Rees As Director Of Tennis Integrity Unit & Adopt Uniform Anti-Corruption Code*, TENNIS LIFE MAGAZINE, Aug. 22, 2008, <http://www.tennislife.com/news/industryinsider/articles/08-05/wn-08-08-27-1.html>.

20. *Id.*

21. *Nine-Month Ban For Italy's di Mauro Is First Under New Rules*, ASSOCIATED PRESS, Nov. 10, 2007.

both football games and ATP matches, Di Mauro claimed never to have placed bets on any of the tennis matches in which he competed.

Following a hearing held before the Anti-Corruption Hearing Officer of the ATP, Dr. Peter Bratschi, Di Mauro was declared to have violated the ATP's Tennis Anti-Corruption Program for betting. In his decision, dated November 9, 2007, Dr. Bratschi concluded that a rule violation had occurred "in a gross negligent way" and declared a sanction of nine months ineligibility and a fine of US \$60,000.<sup>22</sup> However, on November 29, 2007, Di Mauro filed a Statement of Appeal, under Rule 7.05 H. 3 of the ATP Code, to the Court of Arbitration for Sport (CAS). Having admitted the violation and his personal culpability for having misunderstood "the real content of the anti-corruption rules," Di Mauro requested only the re-consideration of the penalty.<sup>23</sup> In his view, the sanction was excessive when compared with his misconduct, arguing that it was his first offense and that there was no intention to break the rules or to injure the integrity of the game. Although he did not deny the fact that he opened the betting account and placed all of the modest bets under his own name, the stakes were "made for leisure only" and to "pass the time," and he never bet on his own matches.<sup>24</sup>

The CAS Panel stated that general prevention is best achieved by imposing a just individual sanction.<sup>25</sup> If the term of ineligibility and the amount of the fine were not reduced in this case, the punishment imposed upon Di Mauro would place the proportionality of the sanction in question and vitiate the preventive purposes which it intends to achieve. For this reason, the Panel partially granted the appeal, reducing the term of ineligibility from nine months to seven months and the fine from 60,000 dollars (US) to 25,000 dollars (US).<sup>26</sup>

Potito Starace and Daniele Bracciali were also sanctioned by the ATP in December of 2007. Starace wagered on matches from February to May of 2006, while Bracciali's bets were from May 2004 to January 2005. Starace made five bets totalling one hundred thirty dollars (US), and Bracciali made about fifty bets of seven dollars (US). The Italian tennis federation stated that both players bet on matches involving others, and also that they were unaware that the wagers violated ATP regulations. Starace, ranked 31st, was suspended by the ATP for six weeks and fined 30,000 dollars (US), while

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22. *Nine-Month Ban for Italy's di Mauro Is First Under New Rules*, ESPN.COM, Nov. 10, 2007, <http://sports.espn.go.com/sports/tennis/news/story?id=3103462>.

23. *Id.*

24. *Id.*

25. *Alessio Di Mauro v. ATP Tour Inc.*, CAS 2007/A/1427.

26. *Id.*



Bracciali, ranked 258th, was banned for three months and fined 20,000 dollars (US).<sup>27</sup>

Giorgio Galimberti was subsequently sanctioned in February of 2008, suspended for 100 days and fined 35,000 dollars (US). The ATP stated that he bet on tennis from June 2003 to January 2006, wagering 401 times on 1,796 tennis matches.<sup>28</sup> Federico Luzzi was also sanctioned in February of 2008. He was suspended 200 days and fined 50,000 dollars (US) by the ATP for betting. An ATP investigation, launched in August 2007, found that Luzzi had wagered 273 times on 836 tennis matches between May 2004 and April 2007. Of these 273 bets, one was a €3 bet, placed on him to win. The ATP found no evidence of any attempt by Luzzi to affect the outcome of any tennis match; this was a conclusion shared by the independent Anti-Corruption Hearing Officer, Dr. Bratschi.<sup>29</sup> Luzzi also appealed to CAS relating to this sanction, but the Panel deemed the appeal withdrawn.<sup>30</sup>

Frantisek Cermak and Michal Mertinak were both sanctioned by the ATP in July 2008. Neither of the players had bet on their own matches, and the investigation found no evidence of any intent to affect the outcome of the matches wagered upon. Cermak was suspended for ten weeks and fined 15,000 dollars (US); Mertinak was suspended for two weeks and fined 3,000 dollars (US) for betting on tennis matches in October 2006.<sup>31</sup>

Finally, in August 2008, Mathieu Montcourt was suspended from participation in the ATP Tour for a period of eight weeks, and fined 12,000 dollars (US) after the ATP determined that he bet on matches. Launched in November 2007, the ATP investigation found that he wagered on tennis matches during a period dating from June 2005 through September of the same year. Montcourt did not wager on his own matches, and the investigation found no evidence of any intent to affect the outcome of any matches wagered upon.<sup>32</sup> Montcourt appealed this decision to CAS.<sup>33</sup>

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27. *Players Bet on Tennis, But Not Their Own Matches*, ESPN.COM, Dec. 27, 2007, <http://sports.espn.go.com/sports/tennis/news/story?id=3165719>.

28. William Weinbaum, *ATP: Galimberti Bets Included Wagers on Own Matches*, ESPN.COM, Feb. 19, 2008, <http://sports.espn.go.com/sports/tennis/news/story?id=3253331>.

29. *Luzzi Fined \$50,000, Suspended 200 Days*, ESPN.COM, Feb. 29, 2008, <http://sports.espn.go.com/sports/tennis/news/story?id=3271281>.

30. *Federico Luzzi v. ATP Inc.* CAS 2008/A/1529.

31. *ATP Suspends Doubles Titlists Cermak, Mertinak for Betting*, ESPN.COM, July 21, 2008, <http://sports.espn.go.com/sports/tennis/news/story?id=3498511>.

32. *Montcourt Suspended 2 Months, Fined \$12K for Betting on Matches*, ESPN.COM, Aug. 8, 2008, <http://sports.espn.go.com/sports/tennis/news/story?id=3525837>.

33. *Mathieu Montcourt v. ATP*, CAS 2008/A/1630. The case was pending before CAS at the time of writing this article.

*B. Olympic Games Events*

Gambling and match fixing are certainly not confined to tennis or even athletes. Referees, coaches, and officials are also involved in this form of corruption in various sports. The Chinese badminton coach, Li Yongbo, came forward in the spring of 2008 admitting that he had fixed a badminton match at the 2004 Athens Olympic Games.<sup>34</sup> Li Yongbo told China Central Television's sports channel that the 2004 Olympics semi-final was fixed to improve China's chances of winning a gold medal. Two Chinese players, Zhou Mi and Zhang Ning, were drawn together in the semi-final tie. After watching Zhang win the first game, the coaching staff decided that she would have a better chance at winning the final against a non-Chinese opponent rather than Zhou. Yongbo subsequently told Zhou Mi to throw the game and let Zhang into the final. Zhang won the gold as planned over Mia Audina from the Netherlands.<sup>35</sup>

During the 2008 Beijing Olympic Games in boxing, the International Boxing Association (AIBA) Executive Director, Ho Kim, stated that the AIBA leadership had received information that Rudel Obreja, the Romanian deputy technical delegate of the Beijing Olympic boxing competition, tried to influence select referees. Obreja alleged that the organization brought in an extra employee to monitor the random computer selection of match judges and referees and, in many cases, changed the assignments to suit particular boxers. AIBA excluded the suspicious referees from certain bouts. Obreja then held an "unauthorized press conference" on the sidelines of the boxing competition, and accused some judges and referees of match-fixing. The AIBA Executive Committee Bureau charged Obreja with corruption, misconduct toward judges and referees, and disparagement of AIBA's reputation and interests at the disciplinary commission.<sup>36</sup>

*i. What Is Being Done?*

International Olympic Committee (IOC) President, Jacques Rogge, has called for a united front of the international sports federations to combat the problem of match-fixing. He stated: "This is something we have to address. The purpose of the IOC is to have a common approach to that with all

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34. *China Admits Throwing Olympic Badminton Match*, GULF DAILY NEWS, June 11, 2008, 2008 WLNR 15430567.

35. *China Coach Admits Match Fixing*, YAHOO! SPORTS, Mar. 23, 2008, <http://uk.eurosport.yahoo.com/23032008/58/china-coach-admits-match-fixing.html>.

36. *Romanian Boxing Official Rudel Obreja to Resort to CAS After Cheat Jibe*, THE AUSTRALIAN, Sept. 3, 2008, <http://www.theaustralian.news.com.au/story/0,25197,24286751-5013449,00.html>.

international sports federations and the national Olympic committees. This is what we did in the fight against doping.”<sup>37</sup> At the 2008 Beijing Olympic Games, the IOC created a special unit to watch for suspicious betting patterns during the Olympic Games. For the first time agreements were signed with major betting companies to monitor any irregular gambling during Olympic events.<sup>38</sup> The IOC also created a special investigative unit that had the authority to impose sanctions for individuals who violated Article A.5 of the Code of Ethics. That provision of the Code of Ethics concerns the prohibition on betting at the Olympic Games, which states that “[a]ll forms of participation in, or support for betting related to the Olympic Games, and all forms of promotion of betting related to the Olympic Games, are prohibited.”<sup>39</sup> The special IOC investigative unit had the power to confront those involved, and then turn their findings over to the executive board, which was enabled to make sanctions.

### *C. Professional Soccer*

In soccer, Declan Hill, an investigative journalist and academic, exposed several potentially explosive stories of sports corruption in his study of match-fixing in professional soccer. His book, *The Fix: Soccer and Organized Crime*,<sup>40</sup> exposes fixed matches in the 2006 World Cup Games between Ghana-Italy, Ghana-Brazil, and Italy-Ukraine.<sup>41</sup> In his research for this book, Hill interviewed more than two hundred people, including professional gamblers, Mafia hitmen, undercover police, top-level international soccer players, referees, and officials, and also came into contact with the multi-billion-dollar illegal Asian gambling industry. Through his investigation, Hill discovered that gambling fixers have successfully infiltrated professional soccer, including major international matches.

In professional soccer, corruption began with the illegal Asian gambling industry, which has infiltrated the sport and organized some of the largest and most extensive match-fixes. At the top of this gambling structure sits a

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37. *IOC Calls for Common Front Against Match-Fixing*, SPORT BUSINESS INTERNATIONAL, Dec. 13, 2007, <http://www.sportbusiness.com/news/163107/ioc-calls-for-common-front-against-match-fixing>.

38. *Major Steps Taken to Fight Olympic Match-Fixing*, CBC, June 6, 2008, <http://www.cbc.ca/olympics/badminton/story/2008/06/06/f-olympics-news-matchfixing-prevent.html>.

39. INTERNATIONAL OLYMPIC COMMITTEE, RULES FOR THE APPLICATION DURING THE OLYMPIC GAMES IN BEIJING OF ARTICLE A.5 OF THE CODE OF ETHICS CONCERNING THE PROHIBITION ON BETTING LINKED TO THE OLYMPIC GAMES, (2008), available at [http://multimedia.olympic.org/pdf/en\\_report\\_1323.pdf](http://multimedia.olympic.org/pdf/en_report_1323.pdf).

40. DECLAN HILL, *THE FIX: SOCCER AND ORGANIZED CRIME* (2008).

41. The 1984 UEFA Cup semi final match is also claimed to have been fixed. See *id.* at 93.

prominent businessman or politician who provides protection from the government and the police. These individuals may not be involved in the day-to-day running of the gambling industry, but they do provide political protection and influence. Such powerful individuals help to protect organized crime groups and bookies to fix matches.<sup>42</sup> Alongside this prominent businessman or politician is the triad underworld, which provides the muscle to collect debts or provide protection from other groups. The national level bookies, as well as the more localized gambling level, include regional bookies in counting centers. The runners, who each have between fifteen and one hundred clients, supply the bookies with internet technology, collect money from losing bets, and pay off the winning bets. At the bottom of the structure are the punters, who are the millions of bettors, wagering on European and local football leagues, four-digit lotteries, horse-racing, and other events.<sup>43</sup>

For the larger European soccer matches, the television audience in Asia climbs to more than the entire population of Western Europe. With the rise of the internet, this large television population has the ability to bet on games anywhere in the world. Asian match-fixers have capitalized on this phenomenon by successfully operating in Europe.<sup>44</sup> An investment of a few thousand Euros could net a potential return of millions for a match-fixer. A match-fixer will scan the European leagues for matches that allow for corruption. The tournaments involved will include early Champions League, the Union of European Football Associations (UEFA) Cup, and Intertoto Cup matches. During the preliminary rounds of these tournaments, teams from smaller and poorer European countries play one another in hopes of advancing in the competition. Largely due to the fact that there are no other high-level soccer games during June and July, these games between relatively obscure teams attract more gambling than normal.<sup>45</sup>

In Europe, the Asian gambling structures facilitate match-fixing in numerous ways. Most gambling fixers do not actually directly meet with the players; instead, they use what are known as "runners." Runners are often former players known to officials and players, and thus are trusted. Accordingly, they do not create suspicion. Whereas an outsider would not be able to pass security, a former player with a well known reputation can easily gain access to any team event or hotel. They are the connectors between the

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42. *Id.* at 51-53.

43. *Id.* at 58.

44. *Id.* at 84-85.

45. *Id.* at 97.

illegal gambling world and the potentially corrupt soccer team.<sup>46</sup>

Once this runner has infiltrated a corrupt member of the team, the corrupt member of the team is contacted by the bookie. The bookie discloses to the corrupt player which game to lose, offering him money to distribute to himself and the other corrupt players involved. This player then approaches the other corrupt players on the team, offering them money if they help him lose the game. This central corrupt player receives the money, ensures the game is lost, and then distributes the money to his fellow corrupt players. This central player must be an influential player, and is often one of the top players of the team. Fixers want to work with these players, since they often have the influence and prestige on the team that prevents the other players from refusing their scheme. As such, they are able to build a corrupt network on the team.<sup>47</sup>

This central corrupt player must have at least three to five other players to help fix the match. In soccer, fixes normally include five to seven players. A successful fix, however, must at minimum include the goalkeeper, a defender, and a striker.<sup>48</sup> For goalkeepers, the key strategy to throw a game is simple: leave his area as much as possible. A corrupt goalkeeper may rush out of his net and allow the forward to step around him and score. Another tactic used by goalkeepers is to drop the ball or pat it loose in a crowded penalty area. Defenders must also be involved, as one mistake by a defender can easily lead to a goal. One tactic used by defenders includes placing the ball too far away for the goalkeeper to clear or gather it, but near enough to the opposing forward for him to run in and score a goal.<sup>49</sup> Forwards must also be involved in the fix in order for the fix to be successful. If forwards score too many goals, the fix becomes very obvious. As a result, fixers have various strategies for forwards to follow, including dribbling the ball straight at the opponent players thereby allowing them to take away the ball, and missing goal opportunities by either kicking directly at the goalkeeper or missing the goal altogether.<sup>50</sup>

Under Hill's analysis midfielders do not have as direct an influence on the fix as goalkeepers, defenders, and forwards. Their role is to control the fix. It is difficult for a strong team to lose credibly against a weak team. In recent years, the skill of controlling a game is becoming increasingly important, as match-fixers are asking the players not only to lose the game, but also to

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46. *Id.* at 21.

47. *Id.* at 22-23.

48. *Id.* at 23.

49. *Id.* at 29-31.

50. *Id.* at 31-32.

change the game depending on the time of the match. Match-fixers will have far higher odds than just a win or loss when they are able to predict total goals scored in the match or the timing when those goals will be scored. Strategies used by corrupt midfielders include keeping the ball for a long time to allow the other team to take it away, interrupting the system of playing by passing the ball back to the defense and keeping the ball in his area and not allowing the ball to get open.<sup>51</sup>

Match-fixers rely on various methods to gain access and credibility with players, such as manoeuvring their accommodation so as to share the same hotel corridor as the players and officials. Others do it less directly by deploying runners to ensure access between the fixer and the players. These two methods allow the match-fixer to gain access to as wide an assortment of players as possible.<sup>52</sup> The next stage is to approach the player by a telephone call to the targeted player at their hotel and proposing the match-fixing deal. The alternative is a personal approach when the match-fixer is able to develop a relationship with the player and over time persuade the player to participate in the nefarious scheme on an ongoing basis.<sup>53</sup>

The most explosive match-fixing scandal exposed in Hill's book is the 2006 World Cup Finals. According to Hill, the tournament was fixed at an anonymous Kentucky Fried Chicken restaurant in northern Bangkok between four men, including one man who Hill identified as "Lee Chin," who is known to have been fixing games for more than fifteen years. According to Chin, during the 2004 Olympic Games in Athens, some of his associates were able to infiltrate the Ghana team, persuading them to agree to throw their last game against Japan. As a result, Chin had a close relationship with various corrupt Ghanaian players.<sup>54</sup> Chin alleged that the game between Ghana and Italy was fixed,<sup>55</sup> along with the game between Ghana and Brazil.<sup>56</sup> The book also exposes a fixed match between Ukraine and Italy. One of Chin's associates persuaded a few corrupt players on the Ukrainian team to throw the game against Italy.<sup>57</sup> Chin told Hill the essential results of these three matches before they were even played. The games all followed a particular pattern; all of the matches were between relatively poor underdogs and heavily favoured teams.

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51. *Id.* at 32-33.

52. *Id.* at 139-140.

53. *Id.* at 142-143.

54. *Id.* at 226-229.

55. *Id.* at 236-237.

56. *Id.* at 248-249.

57. *Id.* at 251.

In another recent soccer scandal, a Spanish judge, Judge Baltasar Garzon, sent German prosecutors information suggesting that Russian mobsters fixed a UEFA Cup semi-final game last season between the Russian teams Zenit St. Petersburg and Bayern Munich.<sup>58</sup> A probe by Judge Garzon exposed a taped telephone conversation of suspected Russian gang member Gennady Petrov, mentioning that fifty million of an unspecified currency had been paid to Bayern. Previously, one of Petrov's aides, Leonid Khristoforov, boasted to Petrov that he knew the result of the match in St. Petersburg would be 4-0 in Zenit's favour. The final score was in fact 4-0, with Zenit winning. Petrov was one of twenty people arrested in Spain in June 2008 in raids ordered by Judge Garzon. The detainees are suspected members of the Tambov gang, which is considered one of the world's most powerful Russian Mafia groups, with Petrov alleged to be the head of the group. They were accused of laundering proceeds from crimes that included contract killings and arms and drug trafficking. In another conversation, another detained suspect, Vitaly Izguilov, talked of making money on the transfer of one of Zenit's players. The other person in the call mentioned the transfer of four players, but it was not clear if this concerned the Russian league champion.<sup>59</sup>

#### i. What Is Being Done?

In soccer, some of the major European gambling companies, including Betfair, have now signed agreements with UEFA and the International Federation of Association Football (FIFA) in order to share any information about possible match-fixes. FIFA states that its early warning system is an efficient net to catch any potential match-fixes.<sup>60</sup> The development of integrity units similar to those involved in other sports would be of great assistance in bringing these problems under more control. UEFA has recently approved a special investigative unit to stamp out match-fixing and illegal betting in soccer by examining reported situations of irregular betting in European competitions. At the end of last year, UEFA submitted a ninety-six-page report to Interpol detailing match-fixing suspicions of twenty-six matches in the Champions League, UEFA Cup, and Intertoto Cup. Of these twenty-six matches, fifteen remain under investigation.<sup>61</sup>

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58. *Russian Mob Suspected of Fixing UEFA Cup Soccer Match*, THESTAR.COM, Oct. 1, 2008, <http://www.thestar.com/Sports/article/509616>.

59. *Id.*

60. HILL, *supra* note 40, at 176. The efficiency of this, however, is limited. Hill points out those Asian fixers do not bet with Betfair, the English betting companies, or European sports lotteries. Instead, they bet on the Asian gambling market.

61. *UEFA to Set Up Special Unit to Stamp Out Corruption*, MSN SPORT, Sept. 26, 2008,

*D. Professional Basketball*

During the summer of 2007, Tim Donaghy, a National Basketball Association (NBA) referee, was found to have used confidential information to bet on NBA games, and provided this confidential information to bookies and gamblers in violation of NBA rules, policies, and procedures. The League first learned that an NBA referee was connected with illegal gambling from the Federal Bureau of Investigation (FBI) and the United States Attorney's Office for the Eastern District of New York. On June 20, 2007, an FBI agent contacted Bernie Tolbert, the NBA's Senior Vice President of Security, to alert the League that the FBI had interviewed a current NBA referee in connection with a federal investigation of illegal gambling.<sup>62</sup> On June 21, 2007, Commissioner David Stern and other senior members of NBA management met with the FBI.<sup>63</sup> The FBI explained that Donaghy, who had been with the League for thirteen seasons, had placed bets on NBA games, including games he had officiated. The FBI also informed the League that Donaghy had disclosed confidential NBA information, including player injuries and the names of the referees assigned to specific games, to individuals for use in betting on NBA games.<sup>64</sup>

On August 15, 2007, Donaghy pleaded guilty before Judge Carol Bagley Amon in the United States District Court for the Eastern District of New York to two felonies: conspiracy to commit wire fraud by denying his employer the intangible right to his honest services and conspiracy to transmit wagering information.<sup>65</sup> Donaghy made picks on sixteen NBA games that he officiated during the 2006-2007 season, and bet on thirty to forty games that he officiated in each of the prior three seasons. On February 8, 2008, Donaghy's co-conspirators, James Battista and Thomas Martino, were also indicted in the U.S. District Court for the Eastern District of New York. Like Donaghy, Battista and Martino were charged with conspiracy to commit wire fraud by denying the NBA the intangible right to its employee's honest services and conspiracy to transmit wagering information.<sup>66</sup> Martino was also charged with two counts of perjury for lying to a grand jury regarding his involvement in the conspiracies. On April 16, 2008, Martino pleaded guilty to conspiracy to commit wire fraud, and, on April 24, 2008, Battista pleaded guilty to

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<http://sport.sg.msn.com/article.aspx?cp-documentid=1697889>.

62. LAWRENCE B. PEDOWITZ, REPORT TO THE BOARD OF GOVERNORS OF THE NATIONAL BASKETBALL ASSOCIATION 1 (2008)

63. *Id.* at 2.

64. *Id.*

65. *United States v. Donaghy*, 570 F. Supp 2d 411 (E.D.N.Y. 2008).

66. *United States v. Battista & Martino*, 570 F. Supp 2d 411 (E.D.N.Y. 2008).



conspiracy to transmit wagering information.<sup>67</sup> On July 24, 2008, Battista was sentenced to a prison term of fifteen months, and Martino was sentenced to a prison term of twelve months and one day. On July 29, 2008, Donaghy was sentenced to a prison term of fifteen months. The defendants were also ordered to serve supervised release terms of three years each after their imprisonment and to pay \$217,266.94 dollars in restitution to the NBA as the victim of their crimes.<sup>68</sup>

#### i. What Is Being Done?

For many years, the NBA Constitution has prohibited team owners and employees, including players and coaches, and League employees, including referees, from betting, directly or indirectly, on NBA games.<sup>69</sup> The NBA also prohibits the intentional disclosure of confidential League or team information.<sup>70</sup> The NBA's Board of Governors adopted amendments to the NBA Constitution on April 18, 2008, and the League has made other changes to its rules. These changes strengthen and clarify the ban on gambling on NBA games and the prohibition on sharing confidential League information with individuals outside the NBA. The League is also in the process of hiring a full-time Compliance Officer who will be responsible for assuring enforcement by appropriate personnel of the League's compliance policies and procedures and overseeing the League's anti-gambling efforts.<sup>71</sup> Also, starting this season, a "hotline" is available for League and team employees, including referees, coaches, trainers, players and other NBA employees, to anonymously raise questions and report problems concerning gambling and game integrity issues.<sup>72</sup> Finally, ongoing gambling education efforts continue to be enhanced.<sup>73</sup>

As in tennis, the NBA initiated a report by Lawrence B. Pedowitz, called the "Report to the Board of Governors of the National Basketball Association," published on October 1, 2008.<sup>74</sup> As a result of Donaghy's

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67. Transcript of Guilty Plea 23:17-24:14, *United States v. Martino*, No. 08 Cr. 86 (CBA) (E.D.N.Y. April 16, 2008). During his guilty plea, Battista made a similar statement. Transcript of Guilty Plea 18:20-19:6, *United States v. Battista*, No. 08 Cr. 86 (CBA) (E.D.N.Y. April 24, 2008).

68. *See Donaghy*, 570 F.Supp.2d 411.

69. NATIONAL BASKETBALL ASSOCIATION, NBA CONST., Art. 35A(g). Article 35(f) covers players.

70. NATIONAL BASKETBALL ASSOCIATION, NBA LEGAL COMPLIANCE POLICY AND CODE OF CONDUCT, § II.C.

71. PEDOWITZ, *supra* note 62, at 109.

72. *Id.*

73. *Id.*

74. *Id.*

conduct, Commissioner David Stern and the Audit Committee of the NBA's Board of Governors engaged Pedowitz and his colleagues at Wachtell, Lipton, Rosen & Katz to conduct a review of the League's officiating program. This review focused on three areas, including a risk review of issues related to the integrity of the game. They further sought to identify ways that the League could enhance a culture of compliance to the NBA's rules and regulations and underscore the importance of protecting the game's integrity and the NBA's reputation.<sup>75</sup>

### III. BIASED REFEREEING

Biased refereeing occurs when the officials monitoring a match weigh more heavily towards one competitor than the other. It can take many forms, and may be subtle enough to go undetected by both the viewing audience and the players involved. Methods used include unnecessary penalties, missed calls, and inaccurate points awards, all of which are able to effect or even entirely shift the eventual outcome of the match. Biased refereeing was alleged to have occurred in wrestling, boxing, and women's soccer at the Beijing Summer Olympics, although not all of these instances have progressed beyond mere accusations. Outlined below are some recent cases that have been brought forward, demonstrating the nature of biased refereeing and its consequences.

#### *A. Wrestling and Boxing at the Olympics*

##### *i. Ara Abrahamian*

Ara Abrahamian was a member of the Swedish wrestling team for the 2008 Summer Olympic Games in Beijing. He had successfully advanced from the early rounds in his class, but then lost during the men's Greco Roman 84 kg semi-final match. During that match, Abrahamian had initially been assigned a point for the round, which would have required a third period to determine the winner of the bout overall. However, the officials issued a warning to the wrestler at the end of the second period, resulting in him losing the match. The Swedish team responded to the call by requesting for a video check to see if the warning was justified, as allowed by the International Federation of Associated Wrestling Styles (FILA) rules, but was denied this request. The Swedish team later attempted to file a formal protest to FILA and the competition committee alleging that the officials had made a departure from proper procedures, yet FILA refused the protest. The Swedish team

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75. *Id.*

eventually appealed to CAS, who accepted the appeal.<sup>76</sup>

This case demonstrates the role that effective refereeing plays in keeping matches fair. Officials may act or be perceived to have acted rather one-sidedly in judging the bout, and their actions seem to have favoured a win against one of the opponents as may have happened to the Swedish wrestler. Both the issuing of a late penalty and the denial of a video check can be characterised as raising suspicions surrounding the motivations of the officials, and could possibly demonstrate biased judging of the event.

The episode was escalated beyond the match in question. Although Abrahamian went on to fight in the bronze medal bout and win, his disappointment with the earlier outcome was not extinguished. The wrestler expressed his protest against the officials and FILA by walking out of the medal ceremony and placing his medal on the floor. As a repercussion for these actions, he was disqualified from the Olympics and stripped of his medal by the IOC. Abrahamian has since appealed to CAS that these sanctions be lifted.<sup>77</sup> Additionally, FILA banned both Abrahamian and his coach, Leo Myllari, from the sport for two years, and also banned the Swedish wrestling federation from hosting any international events for two years.<sup>78</sup> These later events can be labelled as ripple effects from the biased refereeing during the semi-final match, demonstrating how fundamental fair, independent judging with neutrality is in maintaining the integrity of sports. In high level competitions such as the Olympics, when emotions run high and reputations are at stake, referees control the outcome of much more than the matches they are judging.

## ii. Other Cases

A second biased refereeing case, *Samurgashev v. FILA* which involves a Russian wrestler, was raised towards the end of the Beijing Olympics, and has since been sent to be determined by CAS in Lausanne.<sup>79</sup> The wrestler in this case is seeking the payment of damages from FILA further to the alleged misconduct of an umpire.

Several other complaints were made concerning the officiating of boxing at Beijing. This was nothing new, as Olympic boxing has come under

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76. See Swedish NOC & Abrahamian v. FILA, CAS OG 08/007.

77. See National Olympic Committee of Sweden and Abrahamian v. IOC, CAS 1647/A/2008. At the time of writing, this case was still in process.

78. *Wrestler Banned 2 Years For Olympic Medal Protest*, INTERNATIONAL HERALD TRIB., Nov. 6, 2008, <http://www.iht.com/articles/ap/2008/11/06/sports/OLY-WRE-Abrahamian-Banned.php>.

79. At the time of writing, this case was still in process.

suspicion several times in the past regarding outcomes.<sup>80</sup> Speculations often center on matches being fixed, with referees determining the outcome unfairly for one fighter. As an attempt to repair the flawed refereeing, a new scoring system was implemented at the Beijing Games.<sup>81</sup> However, the new scoring system was actually alleged to have caused more problems than it resolved; fighters who deserved a point did not receive any, and undeserving fighters would often score a point. Additionally, referees awarded points to fighters that seemed like poor or undeserved calls, and at times inconsistent with other calls. Another tactic that was employed to counter biased refereeing was a special unit created by the IOC to monitor any suspicious betting patterns that occurred during the Games.<sup>82</sup>

### *B. Salt Lake Judging Scandal*

One of the most widely publicized cases of judging bias occurred during the 2002 Olympic Winter Games in the pairs figure skating competition. The Canadian pair was said to have skated a flawless performance, and were expected to win gold before the scores for their program were revealed. However, to the surprise of the crowd and many commentators on various networks, the Canadians did not receive the highest scores, and the gold was instead awarded to the Russian pair. Doubts concerning the reliability of the judging were immediately expressed in the aftermath of the event. It was reported that the French judge, upon being confronted by International Skating Union (ISU) members, admitted to having been pressured to score highly for the Russian pair. The ISU announced that it would further examine the details of the judging decision. The ISU and IOC quickly decided to upgrade the Canadian pair from a silver medal to gold. The Canadians shared the gold medal with the Russian pair. However, there were still many, including several judges from the panel, who thought that the Russians were in fact the rightful winners.<sup>83</sup>

This case differs from those discussed above during the Beijing Games in

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80. For example, at the 1988 Summer Olympics in Seoul, American boxer Roy Jones Jr. was robbed of a gold medal due to a highly disputed decision that resulted in the three match judges being suspended. See Gary Smith, *One Tough Bird*, SPORTS ILLUSTRATED, June 26, 1995, available at <http://vault.sportsillustrated.cnn.com/vault/article/magazine/MAG1006753/1/index.htm>.

81. The system involved a panel of five judges sitting ringside with controls to touch to indicate that a boxer deserved to score a point. In order for a point to be received, three of the five judges were required to touch the control within one second or else no point was awarded.

82. Please see the above subsection dealing with solutions to match fixing on page 13 for a more in-depth discussion of the IOC gambling unit.

83. *2002 Olympic Winter Games Figure Skating Scandal*, <http://www.nationmaster.com/encyclopedia/2002-Olympic-Winter-Games-figure-skating-scandal>.

that the players affected by the biased judging were not the ones to commence any action. The catalyst that brought the matter to a resolution was the application of the Canadian Olympic Committee for preliminary relief from the CAS Ad Hoc Division to make an order that certain individuals be compelled to appear before CAS to provide evidence and that a decision be issued that would enable the United States Court to issue subpoenas to various referees and judges to appear and give evidence.<sup>84</sup> Once it was recognized that the CAS would act in such a fashion, the Salt Lake scandal was dealt with swiftly by both the ISU and the IOC, by awarding a co-gold medal to the Canadian pair for their performance and suspending the judge in question for her misconduct. At the time of the incident, the case was covered extensively by the world press with many sympathetic to the Canadian pair. Several factors help to explain the extent of coverage: figure skating is one of the most popular events in the Winter Olympics, and typically not associated with judging scandals; the fact that the pair was Canadian attracted a lot of media attention from the large North American broadcasters; and the Soviet Union and Russian teams had dominated the pairs figure skating event for the previous ten Winter Olympics. The IOC and the ISU had no choice but to act to resolve the problem.

#### IV. DOPING

When athletes engage in the use of substances to enhance their performance, it places those that train and compete legitimately, and with sporting integrity, at a considerable disadvantage. Not only does doping tarnish fair play, but it also creates scepticism whenever an athlete is able to perform at a high ability and surpass past benchmarks; eyebrows are almost always raised with doubts centered on doping. The exceptional performances of Michael Phelps<sup>85</sup> and Usain Bolt<sup>86</sup> at the Beijing Summer Games, both excelling in their sports, immediately drew accusations that doping must have played a role. The public is unwilling to accept remarkable feats as being attributable to human ability, and mistrust of athletes is escalating.<sup>87</sup> Last

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84. Canadian Olympic Association v. International Skating Union, CAS OG 2002/004.

85. American swimmer who won eight gold medals and set seven new world records.

86. Jamaican sprinter who won gold medals in the 100, 200, and 4x100 meter races, and set two new world records.

87. Three cyclists from the Tour de France 2008 were found long after the race was over on re-evaluation testing to have produced Adverse Analytical Findings for CERA, an advanced version of the blood-booster EPO. See Stephen Wilson, *IOC Exec: Cycling's Olympic Future in Limb*, YAHOO! SPORTS, Oct. 6, 2008, <http://sports.yahoo.com/olympics/news?slug=ap-cyclingsfuture&prov=ap&type=lgns>. The IOC announced on 8 October 2008 it was to retest many samples from the Beijing Olympics for the same substance. See *IOC to Further Analyse Beijing 2008 Samples*,

year's release of the Mitchell Report covering steroid use in professional baseball demonstrated the depth and breadth of doping in that professional sport. The Report makes the point that doping is a form of corruption,<sup>88</sup> much like gambling, in that it gnaws at the integrity of professional baseball. When big name players who have broken past records are mentioned in the Mitchell Report, the entire professional sporting organization is cast in a shadow of doubt.

#### *A. Azerbaijan Women's Field Hockey Team*

At the Beijing Summer Olympics, the Ad Hoc Division of CAS dealt with a matter of eligibility for the Olympics<sup>89</sup> that focused on an issue of doping. An application was filed to CAS by the Azerbaijan National Olympic Committee (ANOC), the Azerbaijan Field Hockey Federation (AFHF), and the players of the Azerbaijan Field Hockey Team against the International Hockey Federation (FIH).<sup>90</sup> ANOC and AFHF requested authorization for the women's team to be able to participate in Beijing by challenging a decision issued by the FIH judicial committee in relation to an alleged doping case committed by two Spanish players during the Women's World Hockey qualifying tournament.

The Azerbaijan Women's Field Hockey Team had participated in the Women's World Hockey Qualifier in Baku, Azerbaijan. The Spanish team defeated Azerbaijan and thereby qualified to participate in the Olympics. Subsequently, it was alleged that two Spanish players had committed doping infractions. The FIH Judicial Committee found that one Spanish player, Gloria Comerma, had committed a doping infraction without fault or negligence, while the other player was exonerated from any anti-doping rule violation – as such her name cannot be released. Although not a party to the doping case between the Spanish players and the International Federation, the Azerbaijan team called for a new hearing. They submitted that both Spanish players had committed anti-doping rule violations and were therefore asking that the entire

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OLYMPIC.ORG, Oct. 8, 2008, [http://www.olympic.org/uk/news/olympic\\_news/full\\_story\\_uk.asp?id=2828](http://www.olympic.org/uk/news/olympic_news/full_story_uk.asp?id=2828).

88. George J. Mitchell, *Report to the Commissioner of Baseball of an Independent Investigation into the Illegal Use of Steroids and Other Performance Enhancing Substances by Players in Major League Baseball*, Sec. II.B, page 11, Dec. 13, 2007, available at <http://mlb.mlb.com/mlb/news/mitchell/index.jsp>.

89. See Azerbaijan Field Hockey Federation & Azerbaijan National Olympic Committee, and Players v. Federation Internationale de Hockey, CAS OG N° 08/001, 004 & 005. All three decisions are the subject of a judicial review application brought before the Swiss Federal Tribunal in October of 2008. The outcome of that proceeding was unknown at the time of writing this article.

90. See Azerbaijan Field Hockey Federation, CAS OG 08/001.

Spanish team be disqualified from the event, and that the Azerbaijan team be proclaimed the winner and designated replacement at the Olympics.<sup>91</sup>

The CAS Panel found that the Azerbaijan team did not have any standing to bring an application affecting the Spanish players and dismissed the appeal. No eligible parties, such as the IOC or WADA, raised an appeal, so the ruling was upheld. The Azerbaijan team was therefore not eligible to participate in the Olympic Games. The case merely skims the surface of an apparently greater problem and issue than was before the Ad Hoc Division. The only reason that the Azerbaijanis were denied the appeal was that they had no standing to raise the application; CAS never ruled on the issue of doping in this matter.<sup>92</sup>

### *B. Austrian Ski Team*

Ten members of the Austrian ski team were placed on trial in Italy in October 2008 for allegations of doping at the 2006 Winter Olympics in Turin.<sup>93</sup> The case involved blood doping by the athletes to enhance their performances, which was thought to be a well organized strategy that involved several people in various positions within the organization. The accused group included athletes, trainers, medics and officials, including the president of the Austrian Skiing Federation. The five accused athletes among the group were all banned for life by the IOC. At the time of writing, the cases were pending before the Italian courts and obviously no applications had yet been brought to CAS.

### *C. Testing at Beijing*

A team consisting of ten independent observers was hired to monitor and report on the drug testing procedures undertaken during the Beijing Games. The results of the official report, which were presented to the World Anti-Doping Agency (WADA), revealed several issues. The most striking of these was the allegation that “around 300 test results were missing [from the WADA accredited Laboratory] in comparison to the doping control forms,” and that the IOC was also missing some reports.<sup>94</sup> Additionally, the report raised the concern that the Laboratory failed to catch a quality control sample that

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91. *Id.*

92. *Id.*

93. 10 Austrians Handed Notice In Turin-Doping Probe, AUSTRIA TODAY, Oct. 8, 2008, available at <http://austriantimes.at/index.php?id=9010>.

94. World Anti-Doping Agency, *Report of the Independent Observers, XXIX Olympic Games, Beijing 2008*, Section 1.1, page 5, available at [http://www.wada-ama.org/rtecontent/document/WADA\\_IO\\_Report\\_Beijing\\_2008\\_FINAL\\_FINAL.pdf](http://www.wada-ama.org/rtecontent/document/WADA_IO_Report_Beijing_2008_FINAL_FINAL.pdf) (last visited December 10, 2008).

contained a prohibited substance.<sup>95</sup> The matter was quickly cleared-up by WADA and the IOC with all of the missing tests, including the quality control sample, being traced and sent to the team of independent observers. No new negative test results were revealed within these tests. WADA released an addendum to the report addressing these issues and their explanations.<sup>96</sup>

There were additional issues mentioned in the independent observers' report that were not justified in the addendum. The observers pointed out that the Beijing Laboratory was unable to test for insulin, which is a banned substance.<sup>97</sup> Additionally, nearly half of the National Olympic Committees (NOCs) present at the Games failed to provide important whereabouts information of their athletes to enable effective pre-Games and out of competition testing programs.<sup>98</sup> The report also pointed out several occasions where doping control was over rigorous, specifically through the monitoring of athletes by doping control officers (DCOs) and chaperones. Some notable instances included: a chaperone running behind an athlete to do a lap of honor around the hockey pitch with the entire team;<sup>99</sup> another chaperone who joined a victorious team's huddle after a basketball match;<sup>100</sup> and a DCO that was unfamiliar with the use of tampons by females concerned that it was a form of manipulation device during a urine sample.<sup>101</sup>

The Independent Observer process is an excellent prophylactic methodology. It ought to be adopted as a control mechanism in more sports situations involving many of the activities discussed in this article. The methodology goes a long way to ensuring neutrality and independence in the sporting organization and how it carries out its functions. There is no better method of protecting integrity in sport.

## V. CONCLUSION

Sports regulatory bodies are attempting various initiatives to help remedy the problems associated with corruption. Players must be educated and aware of the threats to the integrity of the sport, along with education and awareness of the rules and regulations against betting, gambling, and performance

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95. *Id.* at 25, §3.10, comment VII.

96. See World Anti-Doping Agency, *Addendum to the 2008 Olympic Games Independent Observer Report*, available at <http://www.wada-ama.org/rtecontent/document/ADDENDUM-IO-Report2008-27October2008.pdf> (last visited December 10, 2008).

97. *Report of the Independent Observers*, *supra* note 94, at 25.

98. *Id.* at 4, §1.1.

99. *Id.* at 17, §3.6.4.

100. *Id.*

101. *Id.* at 21, §3.8.1, comment V.



enhancing drugs. A crucial aspect of addressing the threats to integrity in sports is an effective education and awareness program for all players, players' support staff, officials and other relevant persons.<sup>102</sup> Players and all those connected with the sport must understand the nature of the threats and the penalties if caught, as well as the need to act responsibly in enhancing the integrity of the sport. A strong message must be delivered that each player, official, and coach has a role to play in maintaining and enhancing the integrity of sport.

The examples highlighted throughout this paper illustrate the grim realities of the level of corruption that have infiltrated the modern day professional sporting and elite athlete world. The undesirable actions of a few are negatively affecting the outcomes for many. Professional sports provides a means to make a legitimate living for well more than just the athletes involved in the matches: coaches, assistants, trainers, officials, venue staff, and television commentators provide only a short list of the careers created through the large sporting network. When the integrity of sports is corrupted and tested, the livelihood of a great body of people is destabilized. The measures suggested here must be taken and strengthened in order to successfully fight off corruption and stop sport from becoming merely a form of entertainment, having lost the element of unpredictability of outcome.

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102. See PEDOWITZ, *supra* note 62, at 107-109.