

2017 Master of the Game Award

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SPEECH AND TRIBUTES

2017 MASTER OF THE GAME AWARD

The National Sports Law Institute's Master of the Game Award honors an individual who has made significant contributions to the sports industry and who exemplifies the highest level of professionalism in his or her field. The 2017 Master of the Game Award was given to Professor Richard McLaren during the Institute's Fall 2017 Conference, *Maintaining the Integrity & Commercial Value of Sports While Protecting Athlete's Rights*, on October 13, 2017. Professor Richard McLaren, OC, HBA, LLB, LLM, DD, C Arb, is a Professor of Law at Western University in London, Ontario, Canada; Counsel to McKenzie Lake Lawyers LLP; member of the Court of Arbitration for Sport, Lausanne, Switzerland; and a long-time member of the National Sports Law Institute's Board of Advisors. He is also the recipient of the Order of Canada, one of Canada's highest civilian distinctions, which recognizes exceptional achievement, service, and contribution to the country and the international community.

After accepting the award Professor McLaren then gave the following Keynote Speech.

KEYNOTE SPEECH
SPORTS INTEGRITY: DO WE HAVE IT? THE
SOCHI DOPING SCANDAL AND THE
REGULATION OF DOPING IN
INTERNATIONAL SPORT

PROFESSOR RICHARD H. MCLAREN

I am exceedingly honoured to receive the National Sports Law Institute's (NSLI) Master of the Game Award. When I review the various prior recipients of the award, I realise how very prestigious this award is, and I am humbled to be joining this list of recipients. The rich history of the award and of the NSLI speaks volumes. The NSLI is beyond a doubt the leading institution of its kind; not just in the United States but in North America and further afield. A special note must also be made to the prominent role that the Tierney family played in planting the seeds of the Institute and nurturing its growth and development. I am very proud to be selected as a recipient of the award and I will always cherish this recognition. I would like to thank the Board of the Institute and its Director Paul Anderson, along with all of those who played a role in my selection.

The past few years have been nothing short of busy. My role as the Independent Person (IP) appointed by the World Anti-Doping Agency (WADA) to conduct an international investigation into the allegations of widespread doping and corruption in Russia made by Dr. Rodchenkov, former director of the WADA accredited laboratory in Moscow, became larger than I could have ever expected. Many lessons and highlights came out of this work, but I would like to focus on one in particular: the central role of whistleblowers in sport reform throughout the world.

My thoughts on this topic come directly out of my work as the IP, and from my work with the prior three-person Independent Commission (IC). The IC was similarly appointed by WADA, and was mandated to investigate doping and corruption within Russian Athletics. The key whistleblowers for the IC were Yuliya Stepanova, a Russian 800-meter sprinter, and her husband, former anti-doping official, Vitaly Stepanov. Their counterparts for my IP work were Dr. Rodchenkov and several other confidential witnesses whom I am unable to name publicly for security reasons.

There is a direct link between whistleblowers and strengthening integrity in sport. The United States Anti-Doping Agency (USADA) had Floyd Landis in the Lance Armstrong matter; the Federal Bureau of Investigation (FBI) in the Fédération Internationale de Football Association (FIFA) investigation had the late Chuck Blazer as an informer; and the most recent FBI investigation into National Collegiate Athletic Association (NCAA) basketball also had key persons as whistleblowers. Without whistleblowers, it is unlikely that any one of these organisations would have had the opportunity to expose the very practises that threaten the integrity of sport. Whistleblowers are also fundamental to the protection of the commercial value of sport, although it might not seem to be the case in the immediate aftermath of a whistleblowing event. The following two illustrations show how whistleblowers help identify problems and strengthen integrity in sport.

The first example is in relation to the IC where Yuliya Stepanova was exceedingly courageous in her desire to expose the institutional doping system of Russia. She videotaped meetings with her coaches and doctors. That evidence was turned over to the IC and resulted in a number of disciplinary actions by the International Association of Athletics Federations (IAAF), many of which were appealed to the Court of Arbitration for Sport (CAS). Athletics coaches Viktor Chegin, Alexei Melnikov, and Vladimir Kazarin were banned for life, and Melnikov later appealed to the CAS with no success. Stepanova's former coach, Vladimir Mokhnev, was banned for ten (10) years. Many Russian athletes also received sanctions including Anastasiya Bazdyreva, an 800-metre runner, who was suspended for two years, and teammate Mariya Savinova, who was suspended for four. Working with that evidence led our investigation to other situations of bribery and extortion of Athletics athletes. The IC referred matters to French law enforcement, who in turn criminally charged the Presidents of the IAAF and the All-Russia Athletic Federation (ARAF) along with internal doping control personnel, and the personal lawyer of former IAAF President, Lamine Diack. The bribery and the web of conspiracy surrounding it were finally broken, thanks to a whistleblower.

The second illustration centers on Dr. Rodchenkov and the IP investigation. Without a whistleblower, it is unlikely that the public would have ever known about the urine sample swapping and massive cover-up that went on at the Sochi Winter Olympic Games. The incredible revelations revealed by Dr. Rodchenkov shocked the world when his information was reported in the *New York Times*. The IP confirmed this information, something that would never have been possible without his help. As with the IC, the information from whistleblowers led my investigators and lawyers to discover the much bigger conspiracy of doping manipulation occurring at the Moscow lab in the form of what we called the Disappearing Positive Methodology (DPM). With the blow

of a whistle, one of the greatest sports conspiracies in history became a matter of public record. Whistleblowers are therefore essential to exposing practices that threaten the integrity of sport. Indeed, with systemic corruption, it may be the only plausible means of uncovering corruption and the truth that lies beneath it.

Frequently, and unfortunately, whistleblowers are not revered for their contribution and work. This is exemplified by the shocking treatment of Floyd Landis in the Lance Armstrong matter. The reaction to Yuliya Stepanova and Vitaly Stepanov was equally appalling by international sport federations including the much revered International Olympic Committee (IOC). Although Stepanova was cleared by the IAAF to compete in the Rio Olympics as a neutral athlete, the IOC banned her from competing—claiming that her “long implication” in the doping regime weighed too heavily against her. To the surprise and distaste of many, the IOC invited Stepanova and Stephanov to Rio to watch the Olympics as its ‘special guests’—a slap in their faces and a disregard of the risks they took to unveil the truth. The ARAF would also have nothing to do with Stepanova, and athletes inside Russia laughed at her and ridiculed her. Her decision to speak up will likely prevent her from ever competing in the Olympics. Russian athletes learned an important lesson: *never be a whistleblower*. Equally, the reaction to Dr. Rodchenkov shows the classic response of our society: shoot the messenger and ignore the message.

In stark contrast to Stepanova’s ban, the IOC refused to ban Russia as a whole from the Olympics. Instead, the IOC failed to take decisive leadership and delegated the task to the International Federations (IFs) to ban individual competitors. This created confusion and a lack of coherence in the decisions taken by the IFs leading up to the Rio Olympics and thereafter. Further to this, the IOC criticised WADA for releasing the IP report shortly before the games. The IOC is now attempting to verify the work of the IP without being too harsh on Russian institutions and athletes, despite the wealth of evidence suggesting a push towards an institutionalised manipulation of doping control procedures within Russia. While it appears that it originally set out to denigrate the situation, the IOC has since realised that it cannot do so with credibility.

There are, however, positive steps being taken. The IAAF has launched the Athletics Integrity Unit, a department that deals with both corruption and doping. It is headed by David Howman, former director general of WADA and a recipient of a NSLI award. Those who were in attendance will remember David, who, in accepting his award, took the time to demonstrate the Māori Haka war dance frequently performed by the New Zealand All Blacks rugby team. It is also encouraging to observe that WADA has this year established a whistle blower program. It is within a separate department with the intention that it remains independent and at arms-length from the day to day operations

of WADA more generally. However, in the WADA roadmap to reinstate Russia, WADA has not insisted on ceasing further prosecution of Dr. Rodchenkov nor requested whistleblower legislation in Russia. Although the latter is unlikely, even if it is put in place, Russian athletes who watched the Stepanova matter unfold will likely never come forward.

In conclusion, the world of sport is more interested in maintaining the status quo than reforming itself to deal with the information brought forward by whistleblowers. Organisations must establish robust protection programs for informers; not ridicule them and diminish them by attacking the messenger. Sweeping things under the carpet will not work. I am told that many officials in the IAAF knew of the bribery and corruption that was revealed in the IC reports. Nevertheless, nothing was done until the Independent Commission shone a bright spotlight on the problems. People do not want to be known as “squealers,” “informers,” or “whistleblowers.” We must demand change. Corruption and bribery can no longer be the status quo; rather, we must strive for honesty and integrity.

Thank you for your attention and thank you for the award.

The following tributes were given during the presentation of the 2017 Master of the Game Award to Professor Richard McLaren during the National Sports Law Institute's Fall 2017 Conference, *Maintaining the Integrity & Commercial Value of Sports While Protecting Athlete's Rights*, on October 13, 2017.

TRIBUTES TO PROFESSOR RICHARD MCLAREN

The *Master of the Game Award* honors an individual who has made significant contributions to the sports industry while exemplifying the highest level of professionalism in his or her field. It was first given twenty-five years ago, but has only been given thirteen times since then. Today, we once again honor an individual who is truly a Master of the Game.

This week I have gone back and forth about whether I would be able to be up here to say something about our award winner, as the Conference keeps me a bit busy, but, I nominated our 2017 recipient for this award, and I thought it was appropriate for me to say a few words.

When you run a Sports Law Program you are looking for examples of what it means to be a sports lawyer, a sports law professor and scholar, and what it means to impact this industry. Richard McLaren does all of this. His international career as a sports lawyer working with hockey, baseball, tennis, the Olympics, etc. is virtually unparalleled. Yet, even while still practicing law, Richard remains Professor McLaren, continuing to teach, continuing to write (as of last count we have published seven of his articles in our Sports Law Review), and continuing to work with students in many ways. Virtually any time that I communicate with Richard related to a conference or article, I also communicate with a student who is gaining an incredible experience working with him. Richard has also been part of our Institute for the better part of the past two decades and has participated in dozens of our conferences (always with a PowerPoint presentation and often with an article later), and is always there to add to this event when we need him (today a keynote presentation while receiving an award, and sitting on our next panel). In many ways his presence has become so automatic that we undervalue it here in Milwaukee, Wisconsin, and do not recognize his standing in the international sports community.

Perhaps the best evidence today is that when the World Anti-Doping Agency needed to investigate allegations made in relation to the 2014 Sochi Olympics, it selected Richard as the Independent Person. Think about that. He

was not made part of another commission or group doing this. He is the Independent Person. When you are someone in this industry who is so well respected for your integrity and abilities that you would be given this task, one that bears an incredible responsibility, you are truly a Master of the Game. Congratulations Richard.

Paul Anderson, Director, Sports Law Program and
National Sports Law Institute,
Adjunct Professor, Marquette University Law School, and
Chair, Sports Law Alumni Association

I have had the pleasure of knowing Professor McLaren since we met at a sports law conference in Chicago in 2001. Since then he has been my professional colleague and good friend as well as a mentor in the field of sports arbitration. Having read much of Richard's sports law scholarship (including several articles published in the *Marquette Sports Law Review*) and his most significant sports arbitration awards (there are many among the 200+ cases he has adjudicated), there is no question that he courageously "calls them as he sees them" and that he has done as much as (probably more than) any arbitrator and independent investigator to protect the integrity of sport throughout the world. He has also insisted that athletes' contractual and due process rights be respected, and that they be treated consistently, fairly, and reasonably by sports governing bodies. When I was asked to write a letter in support of his ultimately successful nomination for induction into the Order of Canada (which is equivalent to being knighted in Great Britain), I noted that Richard's longtime commitment and efforts to protect the integrity of sport are among his most important contributions to the international legal community that justified this honor.

Professor McLaren joins a distinguished group of past MOG Award recipients, including Professor Martin Greenberg, the NSLI's founder and a member of Marquette's sports law faculty for more than 30 years. Along with Professor Greenberg, Richard becomes the only person who has received both the MOG and Joseph E. O'Neill Awards¹ for their significant contributions to the sports industry while exemplifying the highest levels of professionalism.

1. The Joseph E. O'Neill Award was established by the O'Neill family, Davis & Kuelthau, S.C., and the National Sports Law Institute after Mr. O'Neill's untimely death in 1992. The award is given to an individual in the sports industry who has made a significant contribution to the field and done so while exemplifying the highest ethical standards.

Matthew J. Mitten, Professor of Law and Executive Director,
National Sports Law Institute and
LL.M. in Sports Law Program for Foreign Lawyers,
Marquette University Law School

Many others who know Richard and have worked with him on various sports matters agree that he is well deserving of the MOG Award:

Congratulations to Rich McLaren on the *Master of the Game Award* conferred by the National Sports Law Institute. This is an inspired choice and appropriate for so many reasons, most of all with its focus on the integrity of sports. The integrity of sport is a fundamental value, which lies at the heart of sport itself and without which the very future of sport is at risk. Rich has been a leading figure in this area for many years, as even a brief recitation of his accomplishments will attest. Leadership is not just talking the talk, but leading by example and I can think of no one more deserving of the recognition accorded to Rich today.

Richard Pound, C.C., O.Q., Q.C., Ad. E, FCA,
Counsel, Stikeman Elliott, Montreal, Canada
member International Olympic Committee,
International Court of Arbitration for Sport, and
015 World Anti-Doping Association Independent Commission

Richard McLaren has been one of the most significant contributors to sport law, and the sport industry, over the past thirty years. He has consistently provided wise counsel to a number of sporting bodies, lectured hundreds of aspiring lawyers, presided over many sport arbitrations, and throughout remained a very decent, humble man. This humility has increased as his career has continued. Heading an Independent Commission for the United States Olympic Committee following the Olympic Games in Sydney, assisting in the Mitchell Report on steroids in baseball for the MLB, and more recently partaking in the Pound Commission on doping in athletics and Russia; then heading the Report on Russian doping more generally, both for WADA, Richard has been totally professional, calm, and quiet. His writing has spoken for itself. I have known Richard for seventeen years and have enjoyed his company and

intellect on many occasions. I warmly congratulate him on this very special award.

David Howman, CNZM
Barrister, former Director General WADA (2003-2016),
Chair Athletics Integrity Unit Board (IAAF),
Adjunct Professor AUT (Auckland), New Zealand

It is my pleasure to extend our heartfelt congratulations to Richard and the National Sports Law Institute for this well-earned award. Richard's accomplishments in the sports law field, both in North America and around the globe, need no recounting from his colleagues at McKenzie Lake Lawyers. Let me say, however, that I have had the good fortune of working with Richard in some of his investigation work. He is an astute, energetic, and thoughtful lawyer who leaves no stone unturned in getting at the truth. Richard has been a model for successive classes of young lawyers through his teaching, mentoring, and the example that he sets of excellence in his profession. We are proud and privileged to have Richard as a member of our firm. Richard joins an illustrious group of recipients of your *Master of the Game Award* and will add his own record of achievement to that group.

John McNair, Partner,
Partner, McKenzie Lake Lawyers LLP
London, Ontario, Canada

I am honoured and proud to have been a McLarenite [student research assistant] and now have the privilege to work [with] Professor McLaren and consider him a dear friend. Since I met Professor McLaren it was clear he was a force in the sports industry. For example, in lieu of first-year law exam prep, I remember watching [him] on live TV tell the world that Major League Baseball had a drug problem. It was unbelievable and shocking, and there would be repercussions, but one of many wisdoms I have picked up over the years from Professor McLaren—the following resonates the loudest: the truth may not be easy, the truth may not be popular, but it is only from accepting the truth that we can move forward. When [he] exposes the truth, whether it is a drug problem in baseball or corruption within an international federation or most recently exposing the institutionalised doping cover up in Russia, the world takes notice and action is taken. He has dedicated his life and built his

career on protecting athletes and on ensuring the deception of the few should not affect the honest, hard work of the many. Professor McLaren is proof that one voice can make a difference. Congratulations Richard, you are a true Master of the Game.

Diana Tesic, sports lawyer,
Investigative team lawyer and Russian language support,
WADA Independent Person Investigation
Counsel to the President, Basketball Arbitral Tribunal
one of Richard's former Western University law students