



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

ARBITRAL AWARD

(0007/08 FAT)

rendered by

FIBA ARBITRAL TRIBUNAL (FAT)

Mr. Raj Parker

in the arbitration proceedings

Ms Tina Marie Thompson, c/o Merrit Management Group Inc., 129 Surrey Drive, New Rochelle, NY 10804 United States of America
represented by Mr. Solly Laniado, Zysman, Aharoni, Gayer & Ady Kaplan & Co, 41-45 Rotshild Boulevard, Tel Aviv 65784, Israel

- Claimant 1 -

and

Ms Stephanie Stanley c/o Merit Management Group Inc., 129 Surrey Drive, New Rochelle, NY 10804 United States of America
represented by Mr. Solly Laniado, Zysman, Aharoni, Gayer & Ady Kaplan & Co, 41-45 Rotshild Boulevard, Tel Aviv 65784, Israel

- Claimant 2 -

or jointly the "Claimants"



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FIBA Arbitral Tribunal (FAT)

vs.

Women Basketball Club “Spartak” Moscow Region, Building 1, S. Makeeva Street,
123100 Moscow, Russia

represented by Mr. Jorge Ibarrola, Ibarrola Sports International Law, 54, avenue de
Rhodanie, 1007 Lausanne, Switzerland

- Respondent -

together with the Claimants, the “Parties”



We Are Basketball

FIBA Arbitral Tribunal (FAT)

1. The Parties

1.1. The Claimants

Tina Marie Thompson (hereinafter the “Player” or “Claimant 1”) is a citizen of the United States of America and a professional basketball player. Claimant 1 is represented by counsel.

Stephanie Stanley (hereinafter the “Agent” or “Claimant 2”) is a citizen of the United States of America and a professional sports agent. Claimant 2 is represented by counsel.

1.2. The Respondent

Women Basketball Club “Spartak” Moscow Region (hereinafter the “Club” or the “Respondent”) is a womens’ basketball club with its seat in Moscow, Russia. It is domiciled at Building 1, S. Makeeva Street, 123100 Moscow, Russia. The Respondent is represented by counsel.

2. The Arbitrator

On 11 August 2008, the President of the FIBA Arbitral Tribunal (the “FAT”) appointed Raj Parker as arbitrator (hereinafter the “Arbitrator”) pursuant to Article 8.1 of the Rules of the



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

FIBA Arbitral Tribunal (hereinafter the "FAT Rules").

3. Facts and Proceedings

3.1. Background Facts

On 28 May 2007, the Claimants and the Respondent entered into a two-season player contract (the "Contract"). Article II of the Contract sets out the following salary payment provisions:

<i>Date of Payments for 2007/2008 season</i>	<i>Payment Sum</i>
<i>Salary advance to be paid on or before 15.06.2007</i>	<i>\$75,000 net</i>
<i>Second salary advance to be paid on or before 10.08.2007</i>	<i>\$75,000 net</i>
<i>Payment 96 hours upon passing medical tests</i>	<i>\$75,000 net</i>
<i>10.12.2007</i>	<i>\$75,000 net</i>
<i>10.1.2008</i>	<i>\$75,000 net</i>
<i>10.2.2008</i>	<i>\$75,000 net</i>
<i>10.3.2008</i>	<i>\$75,000 net</i>
<i>10.4.2008</i>	<i>\$75,000 net</i>
<i>10.5.2008</i>	<i>\$75,000 net</i>



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

<i>Guaranteed Net Sum</i>	<i>\$675,000 net</i>
<i>Date of Payments for 2008/2009 season</i>	<i>Payment Sum</i>
<i>Salary advance to be paid on or before 10.06.2008</i>	<i>\$80,000 net</i>
<i>Second salary advance to be paid on or before 10.08.2008</i>	<i>\$80,000 net</i>
<i>Payment 96 hours upon passing medical tests</i>	<i>\$85,000 net</i>
<i>10.12.2008</i>	<i>\$80,000 net</i>
<i>10.1.2009</i>	<i>\$80,000 net</i>
<i>10.2.2009</i>	<i>\$80,000 net</i>
<i>10.3.2009</i>	<i>\$80,000 net</i>
<i>10.4.2009</i>	<i>\$80,000 net</i>
<i>10.5.2009</i>	<i>\$80,000 net</i>
<i>Guaranteed Net Sum</i>	<i>\$725,000 net</i>

Article II of the Contract also sets out the following bonus payment provisions:

"The Club will pay the Player the following accumulating bonuses for the 2007/2008 and the 2008/2009 seasons:

Russian Superleague:

Reaching championship finals: \$15,000 USD net
Winning championship: \$20,000 USD net

Russian Cup:

Reaching finals: \$15,000 USD net
Winning cup: \$20,000 USD net



We Are Basketball

FIBA Arbitral Tribunal (FAT)

European Cup - Euroleague

<i>Reaching semi final:</i>	<i>\$15,000 USD net</i>
<i>Reaching championship finals:</i>	<i>\$20,000 USD net</i>
<i>Winning championship:</i>	<i>\$20,000 USD net</i>
<i>Championship Finals MVP:</i>	<i>\$10,000 USD net</i>

Bonuses shall be paid within 15 days after the occurrence of the event crediting the Player with the relevant bonus. It is hereby agreed and declared by the parties that the balance of all payments due will be paid within 10 working days of the last game of the season.”

In the section entitled “*Breach and Remedies*”, Article II of the Contract states:

“A delay of 7 (seven) working (banking) days or more in the making of any payment whatsoever that the Club is liable to pay pursuant to this Agreement (and after the player’s arrival to Russia) shall be deemed to be a fundamental breach of this Agreement, which shall immediately entitle the Player to all monies due under this Agreement. Such days will start to count from the date in which the Club has received a registered mail letter or e-mail on behalf of the Player. Additionally, the Player shall be entitled (in her sole discretion) to cease or temporarily suspend herself in her activity in the Club without derogating the Player’s rights to collect this agreement full payment.

Additionally, Payments which are not made by a date which is 7 (seven) working (banking) days after the applicable payment date will be subject to a late penalty of 200 US\$ (two hundred U.S. Dollar) per working (banking) day. A delay which does not exceed seven working (banking) days will not be considered a delay. Such breach shall permit the Player the right to void the agreement by so indicating in a registered letter or e-mail to the Club and the Player shall be deemed as “Free Player”, enabling the Player to Immediately be registered and play with any other Club according to the Player’s sole discretion.

It is hereby agreed that the above shall be subject to the player sending registered letter or e-mail to the club and the club receiving such letter with regard to the breach and the letter date shall be considered the binding date.”

3.2. The Proceedings before the FAT

On 6 August 2008 the Claimants filed a Request for Arbitration in accordance with the FAT Rules and subsequently paid a non-reimbursable fee of EUR 2,985.00.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

By email dated 26 August 2008, the Arbitrator accepted his appointment and signed a declaration of acceptance and independence.

On 1 September 2008, the FAT acknowledged receipt of EUR 8,988.00, representing the Respondent's share of the advance on arbitral costs to be paid by the Parties.

On 11 September 2008, the FAT acknowledged receipt of EUR 9,037.40, representing the Claimants' share of the advance on arbitral costs to be paid by the Parties.

On 22 September 2008, the Respondent submitted its answer to the Claimants' submissions (the "Answer").

On 13 October 2008, with permission from the Arbitrator, the Claimants submitted their second set of submissions (the "Claimants' Second Submissions").

On 31 October 2008, with permission from the Arbitrator, the Respondent submitted its second set of submissions (the "Respondent's Second Submissions").

On 14 November 2008, the Arbitrator issued Procedural Order No. 1, requesting the Parties to answer two sets of factual questions, entitled Part A and Part B.

On 27 November 2008, the Claimants submitted their answer to the Part A questions (the "Claimants' Part A Answer").

On 28 November 2008, the Respondent submitted its answer to the Part A questions (the "Respondent's Part A Answer").

On 5 December 2008, the Claimants submitted their answer to the Part B questions (the "Claimants' Part B Answer").



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

On 5 December 2008, the Respondent submitted its answer to the Part B questions (the "Respondent's Part B Answer").

On 15 December 2008, the Arbitrator issued Procedural Order No. 2, requesting the Parties to pay a further advance on costs.

On 18 December 2008, the FAT acknowledged receipt of EUR 1,267.86, representing the Player's share of the advance on arbitral costs to be paid by the Parties.

On 22 December 2008, the FAT acknowledged receipt of EUR 1,250.00, representing the Agent's share of the advance on arbitral costs to be paid by the Parties.

On 22 December 2008, the Claimants submitted the following account:

"The total up to date costs of the claimants with regard to these proceeding total 14,537.40€ plus 39,188 USD:
1.1 3,000€ representing the non-refundable preliminary fees paid on behalf of the claimants.
(Wire copy and FAT payment confirmation enclosed as exhibit A)
1.2 4,500€ representing the advance on costs paid by Mrs. Stanley.
1.3 4,537.40€ representing the advance on costs paid by Mrs. Thompson.
(FAT payment confirmation enclosed as exhibit B)
1.4 1,250€ representing the additional adjusted advance on costs paid by Mrs. Thompson.
(Wire copy enclosed as exhibit C)
1.5 1,250€ representing the additional adjusted advance on costs paid by Mrs. Thompson.
(Wire copy enclosed as exhibit D)
1.6 34,188 USD representing legal fees cost of the claimants with regard to the undersigned legal attendance up to date.
(74 hours multiply the hourly rate of 400 USD equal to 29,600 USD plus V.A.T. (15.5%) totalling 34,188).
1.7 5,000 USD representing estimated expenses (long distance calls, documentations deliveries, photocopiers etc.)"

On 12 January 2009, the FAT acknowledged receipt of EUR 2,500.00, representing the Respondent's share of the advance on arbitral costs to be paid by the Parties.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

On 21 January 2009, the Respondent submitted the following account:

“Detailed account of the Respondent’s costs

• Total advances of costs paid to the FAT	EUR 11 500.00
• Attorney fees	EUR 20 000.00
• Cost of the trip to Moscow of the Respondent’s attorney	
o Transportation (USD 3 151, exchange rate 26/08/08 = 0.068253)	EUR 2 150.55
o Accommodation (RUB 25 548, exchange rate 26/08/08 = 0.027624)	EUR 705.60
o Russian Visa (CHF 490, exchange rate 26/08/08 = 0. 625)	EUR 303.80
• Total	EUR 34 659.95”

4. The Parties' submissions

4.1. The Claimants' submissions

In the Request for Arbitration, the Claimants submitted that the Club has failed to pay: salary and/or bonus payments of USD 69,000.00 for the 2007/08 season; a salary advance payment of USD 80,000.00 for the 2008/09 season; and Agent’s fees payments of USD 65,000.00 for the 2008/09 season. The Claimants submitted that the bonus payments due to the Player included a payment of USD 10,000.00 for winning the “European Cup – Euroleague... Championship finals MVP”.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

The Claimants stated that the Club's behaviour, both in relation to the payments and in its conduct towards the Player, "*are to be deemed as breach of contract regarding the 2008/09 season*".

The relief sought by the Claimants in the Request for Arbitration includes:

1. payment of USD 69,000.00 for the 2007/08 season;
2. a late payment penalty of USD 200.00 for each day that the above payment was outstanding;
3. full payment for the 2008/09 season of USD 725,000.00 plus bonuses that would have been due, had the Player played for the Club in the 2008/09 season; and
4. payment of the Agent's fees of USD 65,000.00 for the 2008/09 season.

In the Claimants' Part A Answer, it is no longer contended that the bonus payment of USD 10,000.00 for winning the "*European Cup – Euroleague... Championship finals MVP*" is due. The Claimants also state in the Claimants' Part A Answer that a "*bonuses balance payment of 38,220USD*" is due, and not a payment of USD 69,000.00 for the 2007/08 season, as stated in the Request for Arbitration. The Arbitrator notes that the Claimants claim a different amount in the Request for Arbitration to the amount claimed in the Claimants' Part A Answer. The Arbitrator will therefore treat the amount claimed in the most recent submissions, namely the Claimants' Part A Answer, as the amount sought in these proceedings.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

4.2. The Respondent's submissions

In response to the Claimants' four areas of relief sought, the Respondent submitted, in its Answer, that:

1. there is no payment balance due for the 2007/08 season. This is because of deductions made by the Club to the Player's salary in order to pay for certain travel and accommodation expenses;
2. no late payment penalty is due because the Player granted the Club several extensions to make the payments;
3. the first of the two advance salary payments of USD 80,000.00 for the 2008/09 season had been paid, and the Club was withholding payment of the second salary payment because the Claimants had issued the Request for Arbitration; and
4. the Agent's fees for the 2008/09 season are to be paid following the Player's arrival in Russia and, as the Player has not arrived in Russia, no payment is due.

In the Answer, the Respondent also raised "*a counterclaim of USD 725,000 for the case Ms Thompson does not abide by her contractual duties*". In the Respondent's Second Submissions, the Respondent claims that the Player breached the Contract by failing to arrive in Russia ten days prior to the first FIBA Euroleague game. The first game took place on 15 October 2008.

In the Respondent's Second Submissions, the Respondent states that the third payment for the 2008/09 season is subject to the Player passing a medical test, and so



We Are Basketball

FIBA Arbitral Tribunal (FAT)

all subsequent payments for that season are only due if the Player passes the medical test.

5. Jurisdiction and other Procedural Issues

Pursuant to Article 2.1 of the FAT Rules, “[t]he seat of the FAT and of each arbitral proceeding before the Arbitrator shall be Geneva, Switzerland”. Hence, this FAT arbitration is governed by Chapter 12 of the Swiss Act on Private International Law (PILA).

5.1. The jurisdiction of FAT

Art. 178 PILA, which governs the formal and substantive validity of arbitration agreements, reads as follows:

"1 The arbitration agreement must be made in writing, by telegram, telex, telecopier or any other means of communication which permits it to be evidenced by a text.

2 Furthermore, an arbitration agreement is valid if it conforms either to the law chosen by the parties, or to the law governing the subject-matter of the dispute, in particular the main contract, or to Swiss law."

Article II of the Contract contains the following arbitration clause:

"This agreement is to be governed and interpreted in accordance to the FIBA regulations, by the FIBA Arbitral Tribunal. All parties in this agreement (Club, Player and Agent) consent to the jurisdiction of the FIBA Arbitral Tribunal relative to any action or procedure that may arise relating to this agreement. All parties to this agreement accept the present English version of this contractual agreement as fully binding under both Russian and FIBA laws and guidelines."

Article II of the Contract fulfils the requirements of Article 178 PILA.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

The Arbitrator's jurisdiction is not challenged and is based on the foregoing arbitral clause and the FAT Rules.

6. Discussion

6.1. Applicable Law

Article 15.1 of the FAT Rules provides that: "*Unless the parties have agreed otherwise the Arbitrator shall decide the dispute ex aequo et bono, applying general considerations of justice and fairness without reference to any particular national or international law*".

Consequently, as the Parties have not agreed otherwise, the Arbitrator shall adjudicate the claims *ex aequo et bono*.

The concept of *équité* (or *ex aequo et bono*) used in Article 187(2) PILA originates from Article 31(3) of the *Concordat intercantonal sur l'arbitrage*¹ (Concordat),² under which Swiss courts have held that arbitration *en équité* is fundamentally different from arbitration *en droit* :

"When deciding ex aequo et bono, the arbitrators pursue a conception of justice which is not inspired by the rules of law which are in force and which might even be contrary to

¹ That is the Swiss statute that governed international and domestic arbitration before the enactment of the PIL. Today, the Concordat governs exclusively domestic arbitration.

² P.A. KARRER, Basler Kommentar, No. 289 *ad* Art. 187 PIL.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

*those rules.*³

In substance, it is generally considered that the arbitrator deciding *ex aequo et bono* receives “a mandate to give a decision based exclusively on equity, without regard to legal rules. Instead of applying general and abstract rules, he/she must stick to the circumstances of the case”.⁴

This is confirmed by Article 15.1 of the FAT Rules *in fine* according to which the arbitrator applies “general considerations of justice and fairness without reference to any particular national or international law”.

In light of the foregoing developments, the Arbitrator makes the following findings:

6.2. Findings

6.2.1 2007/08 Payments

In the Claimants’ and the Respondent’s Part A Answers, the Parties agree that the total amount of salary and bonus payments due from the Respondent to the Player for the 2007/08 season was USD 765,000.00, comprised of 675,000.00 guaranteed salary payments and USD 90,000.00 bonus payments. The Respondent has provided evidence that the sum which it has actually paid is USD 708,780.00. The Respondent claimed, in the Answer, that the difference of USD 56,200.00 was deducted from the payments to set off various expenses incurred by Respondent in relation to the Player. In the Respondent’s Part B

³ JdT 1981 III, p. 93 (free translation).

⁴ POUURET/BESSION, Comparative Law of International Arbitration, London 2007, No. 717, pp. 625-626.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

Answer, it revised the total cost of those expenses to USD 56,177.00.

6.2.2 Expenses

The expenses deducted by the Respondent are made up of two parts: first, the Player's family's travel and accommodation expenses and second, the cost of the Player's flights between the USA and Russia. The Arbitrator finds that no agreement was made among the Parties in relation to Player's family's travel and accommodation expenses. Indeed, the Respondent states at paragraph 24 of the Respondent's Second Submissions that:

"The Claimants contend that the expenses assumed by the Respondent in favour of Ms Thompson were never agreed upon in advance. This is precisely what the Respondent says."

As there was no agreement between the parties, the Arbitrator concludes that the payments were made *ex gratia*. The Respondent was not therefore entitled to deduct these amounts from the Player's salary.

In respect of the Player's flights between the USA and Russia, the Arbitrator finds that there was an agreement between the Parties that the Respondent would provide six plane tickets to the Player for the 2007/08 season in return for USD 25,000.00. The Player would make payment in two tranches: firstly by paying the Club's designated travel agent USD 12,000.00 on 7 November 2007, and secondly by accepting a deduction from her salary of USD 13,000.00. Accordingly, the Arbitrator finds that the Respondent is entitled to deduct USD 13,000.00 from the Player's salary. An outstanding balance is therefore payable by the Respondent to the Player and accordingly the Arbitrator finds that that Player's claim for USD 38,220.00 is valid.



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

6.2.3 Late Payment

The Respondent has provided, at Exhibit 12 to the Answer, a selection of bank payment orders in respect of payments that have been made from the Respondent to the Player. It is unclear what the payments made on 7 April, 30 April and 27 June 2008 were intended to relate to. On 7 April 2008 the Respondent paid USD 75,000.00, presumably for the Player's April salary payment. The Respondent made a second payment on 7 April 2008 of USD 15,000.00 and a further payment of USD 55,000.00 on 30 April 2008.

The last salary payment of USD 75,000.00 was due on 10 May 2008, however no payment was made until 27 June 2008, when the sum of USD 56,220.00 was transferred to the Player.

Even allowing for deductions for expenses, it is still clear that the payment made on 27 June was forty-eight days late. Article II of the Contract contains the following provisions with regards to late payments:

"A delay of 7 (seven) working (banking) days or more in the making of any payment whatsoever that the Club is liable to pay pursuant to this Agreement (and after the player's arrival to Russia) shall be deemed to be a fundamental breach of this Agreement, which shall immediately entitle the Player to all monies due under this Agreement. Such days will start to count from the date in which the Club has received a registered mail letter or e-mail on behalf of the Player. Additionally, the Player shall be entitled (in her sole discretion) to cease or temporarily suspend herself in her activity in the Club without derogating the Player's rights to collect this agreement full payment.

Additionally, Payments which are not made by a date which is 7 (seven) working (banking) days after the applicable payment date will be subject to a late penalty of 200 US\$ (two hundred U.S. Dollar) per working (banking) day. A delay which does not exceed seven working (banking) days will not be considered a delay. Such breach shall permit the Player the right to void the agreement by so indicating in a registered letter or e-mail to the Club and the Player shall be deemed as "Free Player", enabling the Player to Immediately be registered and play with any other



We Are Basketball

FIBA Arbitral Tribunal (FAT)

Club according to the Player's sole discretion.

It is hereby agreed that the above shall be subject to the player sending registered letter or e-mail to the club and the club receiving such letter with regard to the breach and the letter date shall be considered the binding date."

For the Player to void the Contract or claim under the late payment penalty provisions, the Player must therefore indicate that she intends to do so by registered mail letter or email. There is dispute as to whether the Respondent received a letter from the Agent, dated 21 May 2008, attached as Appendix C to the Claimants' Second Submissions. In the Claimants' Part A Answer, the Claimants state:

"The letter dated 21 May 2008 was sent via e-mail to the club. Sent item log enclosed."

Unlike all other enclosures to the Claimants' Part A Answer submitted to the FAT, the sent item log was not given an exhibit number, and indeed the sent item log was not enclosed in the submissions received by the FAT. The Arbitrator has seen no evidence that the letter was sent by registered mail or email and so the Arbitrator is therefore not required to determine whether or not the letter constitutes a letter of the kind required for the purposes of the above extract of Article II of the Contract.

Furthermore, correspondence between the Player and the Club's Owner, Mr. Shabtai Kalmanovic, in June 2008 suggests that the Player was not seeking a late penalty payment from the Respondent. For example, Exhibit 3 to the Answer contains the following SMS messages from the Player to Mr. Kalmanovic, the first dated 24 June 2008 and the second dated 30 June 2008:

"Shabtai, hope all is well, just wonder'n if everything is ok, haven't receive the payment and bonus as promised on Monday, can u tell me know something, thx Tina"



We Are Basketball

FIBA Arbitral Tribunal (FAT)

*"Hey Shabtai, I received part of my final payment 51,000 2day, but it was short 44,000, plz give me a call or Aaron when you get chance, thk u!
Tina T"*

The Arbitrator has seen no evidence that a registered mail letter or email has been sent to the Club, either voiding the agreement or giving notice that the Player seeks the award of a late payment penalty. As such, the Arbitrator finds that the provisions in the Contract in relation to late payment penalty have not been triggered and so no late penalty payments are due in relation to the 2007/08 payments.

6.2.4 2008/09 Payments

The first advance salary payment for the 2008/09 season was due to be made on 10 June 2008. It was in fact made on 21 July 2008. However, the Arbitrator has seen no evidence that a registered mail letter or email has been sent to the Club, either voiding the agreement or giving notice that the Player seeks the award of a late payment penalty in relation to this payment. As such, no late penalty payments are due in respect of first advance salary payment for the 2008/09 season.

The second salary advance payment for the 2008/09 season, was due on 10 August. However, the Respondent has not made the payment, citing the Claimants' filing of the Request for Arbitration as its reason. Despite this, the Respondent states at paragraph 71 of the Answer that "*the Respondent considers that the Agreement is **still in force and binding** on both Parties*". The Arbitrator agrees that the Contract was still in force on the date that the Respondent filed the Answer (22 September 2008), and so payment for the second salary advance should still have been made. Indeed, the Respondent's contention that the payment is not due because the present proceedings have



We Are Basketball

FIBA Arbitral Tribunal (FAT)

begun is at odds with the Respondent's submission at paragraph 50 of the Respondent's Second Submissions that the Player is in breach of the Contract because she did not arrive in Russia ten days prior to the first FIBA EuroLeague game (5 October 2008). The Arbitrator therefore orders the Respondent to pay the second salary advance payment of USD 80,000.00 to the Player.

The Arbitrator has seen no evidence that a registered mail letter or email has been sent to the Club, either voiding the agreement or giving notice that the Player seeks the award of a late payment penalty, in relation to the second salary advance. However, if such sum is not paid by the Respondent to the Player, pursuant to the Contract and to this award, the Player will be entitled to send a registered mail letter or email giving notice that the Player seeks a late payment penalty, if payment of the sum is not made within seven banking days of receipt of the letter.

6.2.5 The Contract

The Arbitrator finds that the actions of the Club in relation to the Player, up until the filing of the Request for Arbitration, which, among other things, included discussing the possibility of the Player joining another club, and playing for the Club's second team, Spartak Moscow BC, do not constitute a breach of the Contract.

The Player has an explicit obligation under Article I of the Contract to take medical examinations and has an implicit obligation under the Contract to arrive in Russia and play for the Club. The Club has an explicit obligation to pay the Player in accordance with the payment schedule in Article II of the Contract. As of the date of this award, both the Player and the Respondent have failed to perform their obligations under the Contract for over five months. Deciding *ex*



We Are Basketball

FIBA Arbitral Tribunal (FAT)

aequo et bono, the Arbitrator therefore finds that the Contract is terminated for want of performance, with both Parties having evinced an intention not to be bound by its terms. Therefore, no further obligations under the Contract are binding.

6.2.6 Agent's fees

Article IV of the Contract states:

"2008/2009 payment schedule:

*\$30,000 USD Net be paid within the 7 days after the Player's arrival to Russia.
\$35,000 USD Net to be paid exactly 30 days after the Player's arrival to Russia."*

The Agent's fees are therefore contingent on the Player arriving in Russia for the 2008/09 season. The Player has not arrived in Russia for the 2008/09 season and so the USD 65,000.00 claimed by the Agent for the 2008/09 season is not payable.

7. Costs

Article 19.2 of the FAT Rules provides that the final amount of the costs of the arbitration shall be determined by the FAT President and may either be included in the award or communicated to the parties separately. Furthermore Article 19.3 of the FAT Rules provides that the award shall grant the prevailing party a contribution towards its legal fees and expenses incurred in connection with the proceedings.

On 12 February 2009, the President of the FAT rendered the following decision on costs:



We Are Basketball

FIBA Arbitral Tribunal (FAT)

Considering that pursuant to Article 19.2(1) of the FAT Rules “the FAT President shall determine the final amount of the costs of the arbitration which shall include the administrative and other costs of FAT and the fees and costs of the FAT President and the Arbitrator”.

Considering that Article 19.2(2) of the FAT Rules adds that ‘the fees of the Arbitrator shall be calculated on the basis of time spent at a rate to be determined by the FAT President from time to time’.

Considering all the circumstances of the case, including the time spent by the Arbitrator, the complexity of the case and of the procedural questions raised, the President of the FAT determines the arbitration costs as follows:

<i>Arbitrator’s fees (54 hours at an hourly rate of EUR 300 plus 15% VAT)</i>	<i>EUR 18,630.00</i>
<i>Arbitrator’s costs</i>	<i>EUR -----</i>
<i>Administrative and other costs of FAT</i>	<i>-----</i>
<i>Fees of the President of the FAT</i>	<i>EUR 3,500.00</i>
<i>Costs of the President of the FAT</i>	<i>-----</i>
<i>TOTAL FAT COSTS</i>	<i>EUR 22,130.00</i>

In the present case, the Respondent shall bear 50% of the costs of the FAT, as the Player has been awarded some of her claims, but not all; the Agent has not been awarded her claim; and there is no indication that the financial resources of the Parties compels otherwise.

The Arbitrator notes that the advance on costs was paid as follows: (i) Ms Tina Thompson paid EUR 5,786.55, (ii) Ms Stephanie Stanley paid EUR 5,768.70 and (iii) Women Basketball Club “Spartak” Moscow Region paid EUR 11,488.00, meaning that, in total, the Parties have paid EUR 23,043.25. Accordingly, the Arbitrator decides that the FAT shall reimburse EUR 913.25 to the Parties as follows: for the Claimants, (i) EUR 254.05 to Ms Tina



We Are Basketball

FIBA Arbitral Tribunal (FAT)

Thompson and (ii) EUR 236.20 to Ms Stephanie Stanley; and to the Respondent Women Basketball Club "Spartak" Moscow Region EUR 423.00, being the difference between the advance on costs it has paid and 50% of the costs of the FAT (EUR 11,065.00), which it is to bear as decided by the Arbitrator.

In accordance with Article 19.3 of the FAT Rules, the Arbitrator finds that the Respondent should pay USD 20,000.00 towards the Claimants' legal costs, as the Claimants have been awarded some of their claims, but not all, and there is no indication that the financial resources of the Parties compels otherwise.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

8. AWARD

For the reasons set forth above, the Arbitrator decides as follows:

- I. **Women Basketball Club "Spartak" Moscow Region shall pay to Tina Thompson USD 38,220.00 in respect of salary and bonus payments due for the 2007/08 season.**
- II. **Women Basketball Club "Spartak" Moscow Region shall pay to Tina Thompson USD 80,000.00 in respect of a salary advance payment due for the 2008/09 season.**
- III. **Women Basketball Club "Spartak" Moscow Region is ordered to pay 50% of the costs of the FAT, which will be deducted from its advance on costs.**
- IV. **The Claimants are ordered to pay 50% of the costs of the FAT, which will be deducted from their advance on costs.**
- V. **Women Basketball Club "Spartak" Moscow Region is ordered to pay to the Claimants USD 20,000.00 towards their legal costs.**
- VI. **Any other or further-reaching claims for relief are dismissed.**

Geneva, place of the arbitration, 25 February 2009

Raj Parker
(Arbitrator)



We Are Basketball

FIBA Arbitral Tribunal (FAT)

Notice about Appeals Procedure

cf. Article 17 of the FAT Rules
which reads as follows:

"17. Appeal

Awards of the FAT can only be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland and any such appeal must be lodged with CAS within 21 days from the communication of the award. The CAS shall decide the appeal *ex aequo et bono* and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure."