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We Are Basketball

FIBA Arbitral Tribunal (FAT)

ARBITRAL AWARD

(0086/10 FAT)

by the

FIBA ARBITRAL TRIBUNAL (FAT)

Mr. Ulrich Haas

in the arbitration proceedings between

Ms. Brooke Queenan, 307 Essex Street, Coatesville, PA 19320, USA

- Claimant -

vs.

Basketball Club Pecsí Noi Kosariabda Kft, Dr. Veress E.U.10, 7633 Pecs, Hungary

- Respondent -



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FIBA Arbitral Tribunal (FAT)

1. The Parties

1.1. The Claimant

1. Ms. Brooke Queenan ("the Player" or "Claimant") is a professional basketball player of USA nationality.

1.2. The Respondent

2. Basketball Club Pecsí Noi Kosariabda Kft (hereinafter "the Club" or "Respondent") is a professional basketball club with its seat in Pecs, Hungary.

2. The Arbitrator

3. On 23 March 2009, the President of the FIBA Arbitral Tribunal (the "FAT") appointed Prof. Dr. Ulrich Haas as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the FIBA Arbitral Tribunal (hereinafter the "FAT Rules"). Neither of the Parties has raised objections to the appointment of the Arbitrator or to his declaration of independence.

3. Facts and Proceedings

3.1. Summary of the Dispute

4. On 20 August 2008 the Parties entered into an employment contract whereby the Club engaged the Player to play for its team for the 2008-2009 season (hereinafter referred to as the "Contract").
5. In its relevant part the Contract reads as follows:



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FIBA Arbitral Tribunal (FAT)

“ARTICLE 1 – TERM

Player will be an employee of Club during seasons 2008-9. The Club hereby employs Player as a skilled basketball the Player for the term accounting from September 23rd, 2008 until April 30th 2009 or two days after the last official game of 2008-9 season.

ARTICLE 2 – GUARANTEE

This Agreement is fully guaranteed by Club for all salary payments, including but not limited to skill, injury or death. Until 5th January 2009, the Club will have the right to terminate this agreement. If not, then it will be fully guaranteed for the full season.

[...]

ARTICLE 4 – BENEFITS TO PLAYER

All monies paid to Player by Club are “net”. Club assumes all charges of any kind linked to such payment, including all Hungarian national, local taxes. Should payment of any such taxes be required, it is the responsibility of the Club to pay them. The Club will also cover the wiring fees of the monthly payments.

A. SALARY

For Players rendering services described herein, and for her agreement not to play basketball or engage in activities related to basketball for any other person, firm or corporation or institution during the term of this Agreement, and for the undertakings of Player herein, the Club agrees to pay Player during the term of this Agreement the sum of 72,000 US Dollars (Seventy thousand US Dollars) base pay for 2008-9. Payment of the Player’s compensation shall be structured as follows:

Season 2008-9

September 30 th , 2008	5,000 US Dollars (after the first Tournament between 26-27 th of September and after passing physical examinations)
October 15 th , 2008	5,000 US Dollars
November 20 th , 2008	10,000 US Dollars
December 20 th , 2008	10,000 US Dollars
January 25 th , 2009	12,000 US Dollars*
February 25 th , 2009	12,000 US Dollars*
March 25 th , 2009	12,000 US Dollars*
April 25 th , 2009	6,000 US Dollars*

** Only if Club keeps the player past January 5th, 2009*

Late Payments:



We Are Basketball

FIBA Arbitral Tribunal (FAT)

Late payments accrue a penalty of 25 US Dollars for every day payments are late after the 10th of the date of each installment. Club will pay a 25 US Dollars fee for each day payments are late. Any payment over twenty (20) days late will be considered a breach of contract. Said breach will allow player the right to serve written notice of intent to terminate this agreement and be paid all monies due as listed in this agreement should player exercise her right to terminate.

B. BONUSSES

In addition to the compensation herein above provided in paragraph 4a, the Club agrees to pay the Player the following team bonuses:

*Hungarian Championship**

If team wins Hungarian Championship 4,000 US Dollars

*Hungarian Cup**

If team wins Hungarian Cup 2,000 US Dollars

*Euroleague**

If team qualifies in quarter-finals 1,500 US Dollars

If team qualifies in final four 3,000 US Dollars

If team wins Euroleague 6,000 US Dollars

All bonuses are accumulative & free of any Hungarian taxes.

The Club must pay all bonuses to the player in 20 days from the month in which they are earned and after when the Sponsor paid the Invoice's of Bonus for the Club.

**Only if Club keeps the player past January 5th, 2009*

C. Throughout the term of this Agreement, the Club shall also provide the following:

[...]

- *The Club is responsible for payment for the entire season upon signing of the Agreement. Club will secure an insurance policy at its own expense to protect the Club against loss should the Player suffer a season-ending injury, guaranteeing the Player full payment in the event of injury. In the event that such policy fails to cover all amounts owed to the Player, the Club shall be responsible for payment of 100% of such amounts owed to the Player. A physician mutually selected by the Club and the Player will determine the nature and extent of the Player's injuries. In the event of a dispute as to the physicians medical opinion as to the Player's injury or illness, the Player reserves the right to seek an additional*



We Are Basketball

FIBA Arbitral Tribunal (FAT)

opinion from another physician at the Club's expenses. All injuries cases specified in this Agreement may be valid only after the decision of the physician.

[...]

ARTICLE 7 – PHYSICAL EXAMINATION

Club has the right to conduct a physical exam of Player within 5 days of Player's arrival. If Club does not perform the exam within this time period, it loses any right to invalidate this agreement based on the results of the exam. In the event that the Club has Player participate in any Club activity such as a training session or practice before Player has been notified that she has passed such physical examination, Club loses the right to invalidate the Agreement on grounds that Player did not pass the physical exam. If Player after passing the physical has a recurring injury like the one in August in WNBA and it does not allow her to play for an extended time in the official games and practices of the team, the Club will have the right to terminate her contract after fully paying her to that point."

6. Since the beginning of the 2008-2009 season the Club was late in effecting payments under the Contract. This is documented in the Player's bank account statements showing that the September salary (USD 5,000) was paid on 22 October 2008 and the October (USD 5,000) and November (USD 10,000) salaries were paid together on 30 December 2008.
7. During a practice that took place at the beginning of February 2009 the Player suffered an injury to her right knee. On 5 February 2009, a magnetic resonance imaging (MRI) performed on the Player's knee revealed a damage of the articular cartilage.
8. After a period of rest and rehabilitation the Player attempted to resume practicing and playing for the Club. On 20 February 2009 she participated in the Euroleague quarter-final.
9. Due to the severity of the injury and in accordance with Article 7 of the Contract, the Parties ended their contractual relationship on 25 February 2009. On the same day the Player received from the Club the equivalent of USD 442 in Hungarian forints.
10. On 26 February 2010 the Player left Hungary. Since then, the Player has contacted



We Are Basketball

FIBA Arbitral Tribunal (FAT)

several times the Club – both personally and through her legal counsels – seeking payment of her outstanding salaries.

11. On 1 July 2009 the Club paid USD 4,967 to the Player.
12. On 28 January 2010 the Club wrote to the Player's legal counsels as follows:

"[w]e do admit that we still owe our former Player Brooke unfortunately let me just mention that [t]his was absolutely not because our bad intention but basically due to the worldwide financial crisis having major negative on our incomes and cash-flow that we based our contracts and promises on.

We never told that we do not want to pay only we were unfortunately not able to do the remaining steps to finish the contract decently.

Though our situation is not better these days to prove our goodwill and to avoid those negative effects You listed esp. further legal procedure at FIBA we would like to prepare an offer for settlement. As we are in the middle of some negotiations please give us some time till the end of next week enabling us to offer something firm to finalize this awkward situation. [...]

We feel really sorry and apologize that this dispute get (sic) as far as this but still let us emphasize against that it is due some reasons far beyond our control unfortunately!"

13. The Club did not follow-up on the above letter by submitting an offer for settlement and did not make any further payments to the Player.

3.2. The Proceedings before the FAT

14. On 16 March 2010 the Claimant filed a Request for Arbitration in accordance with the FAT Rules. The Claimant duly paid the non-reimbursable fee of EUR 3,000 on 6 April 2010.
15. On 15 April 2010, the FAT informed the Parties that Prof. Dr. Ulrich Haas had been appointed as the Arbitrator in this matter and fixed the amount of the Advance on Costs to be paid by the Parties as follows:



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

“Claimant (Ms. Queenan) EUR 3,000
Respondent (WBC Mizo Pecs) EUR 3,000”

16. On 23 April 2010 the Claimant paid her share of the Advance on Costs in a total amount of EUR 2,980.
17. On 6 May 2010, Mr. Gabor Rozsa, general manager of the Club, filed by email Respondent's Answer, which reads as follows:

“Further to your e-mail of 15th of April and the attached Procedural Order issued by the Arbitrator let us just send hereby our Answer as requested to be submitted no later than 6 May 2010.

Sorry for delaying with the answer, we were very busy lately with our final games of the Hungarian Championship and also to find some resources to be allocated for solving the situation.

Though we admit a certain existing debt toward our former Player Ms Brooke Queenan but we are sorry to say that the amount is not precise unfortunately [sic] and so it is acceptable [sic] for us, of course.

This huge delay is absolutely not because our bad intention nor our unwillingness but basically due to the worldwide financial crisis having major negative effect on our incomes lately. We state that we even do want to pay that is why we would put together a new letter by tomorrow on the instalments that we could send in the upcoming months, but only after re-checking our register regarding those due payments for the Claimants and our cash-flow.

We feel really sorry and apologize again that this dispute get as far as this but still let us emphasize that it is due some reasons unfortunately (sic) far beyond our control!

I hope this information would help You and feel free to contact us if You have any further questions or doubt.”

(emphasis added)

18. The Respondent did not file any further documents nor submit a new proposed payment schedule as indicated in its Answer.
19. On 20 May 2010, the FAT Secretariat informed the Claimant that she would have to



We Are Basketball

FIBA Arbitral Tribunal (FAT)

substitute for the Respondent with respect to the Advance on Costs because the latter had not paid its portion thereof.

20. On 25 May 2010, the Claimant made the substitute payment in an amount of EUR 2,980.
21. On 2 June 2010, considering that neither party had solicited a hearing, the Arbitrator decided in accordance with Article 13.1 of the FAT Rules not to hold a hearing and to deliver the award on the basis of the Parties' written submissions. The Arbitrator accordingly issued a Procedural Order providing that the exchange of documents was completed and inviting the Parties to submit their cost accounts.
22. On 10 June 2010, the Claimant submitted her costs, as follows:

"Account of Costs:

<i>1. Non-reimbursable Arbitration Fee</i>	<i>3000 euros</i>
<i>2. Claimant's Advance on Cost</i>	<i>3000 euros</i>
<i>3. Respondent's Advance on Cost</i>	<i>3000 euros</i>
<i>4. Contribution toward Legal Fees for the preparation of the request for arbitration and communication with Pecs WBC</i>	<i>\$3,000"</i>

23. The Respondent did not submit its account of costs.

4. The Positions of the Parties

4.1. The Claimant's Position

24. The Claimant submits the following in substance:

- The Player's injury was likely the result of a chronic injury. For this reason the



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

Player is only requesting payment of her December 2009, January and February 2010 salaries and of the bonus for the Club's qualification in the Euroleague play-offs.

- The Club has been in default with respect to its payment obligations towards the Player under the Contract;
- The Club shall be ordered to pay also late payment penalties as agreed upon in the Contract.

25. In her Request for Arbitration dated 16 March 2010, the Claimant requested the following relief:

"1. Unpaid Salary as detailed in Article 4, Section B:

- December Payment (due 20.12.2008) \$4,500

**(the 89,700 [forint] paid in cash on 25.2.2009 has been subtracted, as well as \$5,000 paid on 1.7.2009)*

- January payment (due 25.1.2009) \$12,000
- February payment (due 25.2.2009) \$12,000

Total Unpaid Salary \$28,500

2. Late Fees as detailed in Article 4, Section A:

- Late fees totalling 25 dollars per day after the 10th day of the due payment until the date of the FIBA arbitration award

3. Unpaid Bonus as detailed in Article 4, Section B:

- Euroleague quarterfinals \$1,500

Total Unpaid Bonuses: \$1,500

5. Arbitration Fees:



We Are Basketball

FIBA Arbitral Tribunal (FAT)

- *Non-reimbursable handling fee 3,000 Euros*
- *Fixed Arbitration Costs*

6. Legal Fees:

- *Total \$3,000”*

4.2. Respondent's Position

26. In its Answer dated 6 May 2010 the Club mentioned that

- “[T]he amount [claimed by the Player] is not precise”, however without providing reasons for its disagreement with the Player’s calculations;
- It was unable to effect payments under the Contract due to the “worldwide financial crisis”, which had a “major negative effect on the Club’s income”;
- It was willing to pay and would send a letter by the following day regarding the payments it would be able to effect in the coming months.

27. Despite several invitations the Respondent did not make any further submissions in reply to the Request for Arbitration or file any prayer for relief.

5. Jurisdiction

28. 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).



We Are Basketball

FIBA Arbitral Tribunal (FAT)

29. The jurisdiction of the FAT presupposes the arbitrability of the dispute and the existence of a valid arbitration agreement between the parties.

5.1. Arbitrability

30. The Arbitrator finds that the dispute referred to him is of a financial nature and is thus arbitrable within the meaning of Article 177(1) PILA¹.

5.2. Formal and substantive validity of the arbitration agreement

31. The jurisdiction of the FAT over the dispute results from the arbitration agreement contained in Article 5 of the Contract entitled "Dispute", which reads as follows:

"In the event of any dispute in relation to this Agreement, Club agrees to contact Player's Representative in an attempt to negotiate the dispute prior to taking any action. Any dispute arising from or related to the contract shall be submitted to the FIBA Arbitral Tribunal (FAT) in Geneva, Switzerland and shall be resolved in accordance with the FAT Arbitration Rules by a single arbitrator appointed by the FAT President. The seat of the arbitration shall be Geneva, Switzerland and the arbitration shall be governed by Chapter 12 of the Swiss Act on Private International Law (PIL), irrespective of the parties' domicile. The language of the arbitration shall be English.

Awards of the FAT can be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland. The parties expressly waive recourse to the Swiss Federal Tribunal against awards of the FAT and against decisions of the CAS upon appeal, as provided in Article 192 of the PIL.

The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono."

32. The Contract is in written form and, thus, the arbitration agreement fulfills the formal

¹ Decision of the Federal Tribunal 4P.230/2000 of 7 February 2001 reported in ASA Bulletin 2001, p. 523.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

requirements of Article 178(1) PILA.

33. With respect to substantive validity, the Arbitrator considers that there is no indication in the file that could cast doubt on the validity of the arbitration agreement under Swiss law (referred to by Article 178(2) PILA).
34. It is also evident from the documents on file that the Parties engaged into negotiations prior to the Player's filing the Request for Arbitration with FAT on 16 March 2010.
35. It bears emphasizing that no objection regarding the jurisdiction of the FAT has been raised by the Respondent in its answer of 6 May 2010, where it only addressed the merits of this case, i.e. its debt towards the Player, thus tacitly acknowledging the FAT's jurisdiction to decide the matter (Article 186(2) PILA) .

6. Other Procedural Issues

36. Article 14.2 of the FAT Rules, which the Parties have declared to be applicable in the arbitration agreement, specifies that "the Arbitrator may nevertheless proceed with the arbitration and deliver an award" if "the Respondent fails to submit an Answer". The Arbitrator's authority to proceed with the arbitration in case of default of one of the parties is in accordance with Swiss arbitration law² and the practice of the FAT.³

² Decision of the Swiss Federal Tribunal dated 26 November 1980, in: *Semaine Judiciaire (SJ)* 1982, S. 613 et seq., p. 621; KAUFMANN-KOHLER/RIGOZZI, *Arbitrage international. Droit et pratique à la lumière de la LDIP*, 2nd ed, Bern 2010, N 483; LALIVE/POUDRET/REYMOND: *Le droit de l'arbitrage interne et international en Suisse*, Lausanne 1989, Art. 182 PILA N 8; RIGOZZI: *L'Arbitrage international en matière de sport*, Basel 2005, N 898; SCHNEIDER, in: *Basel commentary to the PILA*, 2nd ed., Basel 2007, Art. 182 PILA N 87; VISCHER, in: *Zurich Commentary to the PILA*, 2nd ed., Zurich/Basel/Geneva 2004, Art. 182 IPRG N 29.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

However, the Arbitrator must make every effort to allow the defaulting party to assert its rights.

37. This requirement is met in the current case. The Respondent was informed of the initiation of the proceedings and of the appointment of the Arbitrator, in line with the relevant rules. It was also given ample opportunity to respond to the Claimants' Request for Arbitration. However, the Respondent has chosen not to file a full-fledged Answer and to merely send an email to FAT on 6 May 2010 stating that it would submit a new letter "on the instalments that [the Club] could send [to the Player] in the upcoming months".
38. In light of these circumstances, the Arbitrator considers himself fit to proceed with the arbitration and to deliver the award.

7. Discussion

7.1. Applicable Law

39. With respect to the law governing the merits of the dispute, Article 187(1) PILA provides that the arbitral tribunal must decide the case according to the rules of law chosen by the parties or, in the absence of a choice, according to the rules of law with which the case has the closest connection. Article 187(2) PILA adds that the parties

³ See *ex multis* FAT Decision 0001/07 dated 16 August 2007, Ostojic and Raznatovic vs. PAOK KAE; FAT Decision 0018/08 dated 10 February 2009, Nicevic vs. Beşiktaş; FAT Decision 0020/08 dated 19 March 2009, Dimitropoulos vs. Athlitiki Enosis Konstantinoupoleos; FAT Decision 0024/08 dated 11 May 2009, Sakellariou and Dimitropoulos vs. S.S. Felice Scandone Spa.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

may authorize the Arbitrators to decide “*en équité*” instead of choosing the application of rules of law. Article 187(2) PILA is generally translated into English as follows:

“the parties may authorize the arbitral tribunal to decide ex aequo et bono”.

40. Under the heading "Applicable Law", Article 15.1 of the FAT Rules reads as follows:

“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.”

41. Article 5 of the Contract provides that

“The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono.”

42. Therefore, the Arbitrator will decide the present matter *ex aequo et bono*.

43. 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*⁴ (Concordat),⁵ 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

⁴ That is, the Swiss statute that governed international and domestic arbitration before the enactment of the PILA. Today, the Concordat governs exclusively domestic arbitration.

⁵ KARRER, in: Basel commentary to the PILA, 2nd ed., Basel 2007, Art. 187 PILA N 289.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

*contrary to those rules.*⁶

44. In substance, it is generally considered that the arbitrator deciding *ex aequo et bono* receives

*“the mandate to give a decision based exclusively on equity, without regard to legal rules. Instead of applying general and abstract rules, he must stick to the circumstances of the case at hand”.*⁷

45. 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”.
46. In light of the foregoing developments, the Arbitrator makes the following findings:

7.2. Findings

7.2.1. Outstanding salaries and bonus payment

47. The Player has produced the Contract pursuant to which she was hired by the Club as a professional basketball player. The Contract bears the stamp of the Club and, *inter alia*, sets forth a detailed schedule of salary payments. The Player submits that she rendered her services as instructed by the Respondent.

⁶ JdT (Journal des Tribunaux), III. Droit cantonal, 3/1981, p. 93 (free translation).



We Are Basketball

FIBA Arbitral Tribunal (FAT)

48. The Club has not challenged the validity of the Contract. It is also evident from FIBA Europe's public records⁸ that the Player indeed participated in games during the 2008/2009 season. Also, the Club has never raised any complaint with regard to the Player's performance under the Contract, whether in its various communications with the Player or her representatives, or before FAT.
49. The Arbitrator notes that the Player does not claim any payments under the Contract other than those which had already become due prior to the Contract's termination on 25 February 2009. Also, the Player's injury is not relevant to the payment of her salaries since the Contract provides in Article 2 that it "is fully guaranteed by Club for all salary payments, including but not limited to skill, injury or death."
50. Moreover, the Arbitrator finds that the "worldwide financial crisis" is not a valid excuse for the Club's failure to pay the Player's salaries and bonuses. Indeed, observance of obligations entered into is a fundamental and integral matter common throughout all civilized nations and legal systems. Without such a principle, commerce, honesty, and the integrity of dealings would all but vanish. It is just and fair that when parties enter into the sort of contracts which they did in this matter, then the provisions of such contracts should be observed.
51. The Arbitrator holds that the Club breached its obligations under the Contract, in

⁷ POUURET/BESSON, Comparative Law of International Arbitration, London 2007, N 717, pp. 625-626.

⁸ http://www.fibaeurope.com/cid_KNce8jlnH7Qj1E5yH5rjn2.teamID_2061.compID_jr6ZiXqeGhMBtfq1yxqV83.season_2009.roundID_6469.playerID_58802.html



We Are Basketball

FIBA Arbitral Tribunal (FAT)

particular its main obligation to pay to the Player the agreed remuneration for the months of December 2008, January 2009 and February 2009. The Club also owes to the Player the bonus for qualifying to the Euroleague quarter-finals.

52. Therefore, taking also into account the payments effected by the Club on 25 February 2009 and 1 July 2009 the Arbitrator finds that the Player is entitled to a total amount of USD 30,091 [(10,000 + 12,000 + 12,000 + 1,500) – (442 + 4,967)].
53. However, since the Player's claim is for a lower amount, i.e. USD 30,000, the Arbitrator cannot award *ultra petita* and thus decides that the Club owes to the Player a total amount of USD 30,000 as outstanding salaries and bonus.

7.2.2. Late payment penalties

54. The Player asks for late payment penalties of USD 25 per day starting from the 11th day after the due payment date and until the date of the present award.
55. Article 4A of the Contract states that "late payments accrue a penalty of 25 US Dollars for every day payments are late after the 10th of the date of each installment. Club will pay a 25 US Dollars fee for each day payments are late".
56. The Arbitrator initially notes that the Player was unable to provide the FAT with a due payment date for the bonus of USD 1,500 which was, under Article 4B of the Contract, agreed to be paid "20 days from the month in which they are earned and after when the Sponsor paid the Invoice's of Bonus for the Club".
57. Further, a strict application of the penalty mechanism to the delay in each salary payment would result into a total amount of USD 40,050. In this connection, the Arbitrator refers to the principles mentioned in FAT Decision 0036/09:

"a. The Arbitrator accepts that a contractual penalty shall constitute a credible deterrent against deliberate withholding of due payments.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

b. A contractual penalty in the form of a flat fee, applying equally to small or large sums, may be problematic and may call for adjustment depending on the circumstances.

c. The contractual penalty should be capped. Only under exceptional circumstances (e.g. if the period of default clearly exceeds one year or if the behavior of the debtor calls for a higher sanction), such cap shall exceed the compensation whose payment is secured by the contractual penalty.

d. The Arbitrator should also take the behavior of the parties into account: the duty to mitigate one's own damage requires that contractual penalties should be reduced if the creditor deliberately delays the enforcement proceedings.”⁹

58. The Arbitrator endorses the above principles and considers that they are applicable also to the matter at hand. In this respect the Arbitrator finds the above-mentioned amount to be excessive in view of the fact that a) the Player did not ask for late payment penalties for the delay of her salary payments during the first months of the Contract, b) the Player waited more than one year before filing her claim with the FAT. The Arbitrator in exercising his powers *ex aequo et bono* finds it, therefore, just and equitable to fix the amount due for late payments to USD 10,000.00.

8. Costs

59. Article 19 of the FAT Rules provides that the final amount of the costs of the arbitration shall be determined by the FAT President and that the award shall determine which party shall bear the arbitration costs and in what proportion; and, as a general rule, shall grant the prevailing party a contribution towards its reasonable legal fees and

⁹ FAT Decision 0036/09 dated 3 July 2009, Tigran Petrosean, TP Sports v. Women Basketball Club "Spartak" St. Petersburg, at para. 55.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

expenses incurred in connection with the proceedings.

60. On 20 July 2010 - considering that pursuant to Article 19.2 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*", and 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*", taking into account all the circumstances of the case, including the time spent by the Arbitrator, the complexity of the case and the procedural questions raised - the FAT President determined the arbitration costs in the present matter to be EUR 4,750.00.
61. Considering the Claimant prevailed in her main claim that the Club shall pay her salaries and bonus under the Contract, it is fair that the fees and costs of the arbitration be borne by the Club and that the latter be required to cover the Claimant's legal fees and other expenses.
62. Given that the Claimant paid the totality of the advance on costs of EUR 5,960.00 as well as a non-reimbursable handling fee of EUR 3,000.00, the Arbitrator decides that in application of article 19.3 of the FAT Rules:
 - (i) FAT shall reimburse EUR 1,210.00 to the Claimant, being the difference between the costs advanced by her and the arbitration costs fixed by the FAT President;
 - (ii) The Club shall pay EUR 4,750.00 to the Claimant, being the difference between the costs advanced by her and the amount she is going to receive in reimbursement from the FAT.
 - (iii) Furthermore, the Arbitrator considers it appropriate to take into account the non-reimbursable fee of EUR 3,000.00 when assessing the expenses incurred by the Claimant in connection with these proceedings. Hence, considering also that the



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

amount of USD 3,000.00 for Claimant's legal fees is reasonable, the Arbitrator fixes the contribution towards the Claimant's legal fees and expenses at EUR 5,200.00.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

9. AWARD

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

1. **Basketball Club Pecs Noi Kosariabda Kft shall pay Ms. Brooke Queenan an amount of USD 40,000.00 for outstanding salaries, bonus and late payment penalties.**
2. **Basketball Club Pecs Noi Kosariabda Kft shall pay Ms. Brooke Queenan an amount of EUR 4,750.00 as reimbursement for the advance on costs paid by her to the FAT.**
3. **Basketball Club Pecs Noi Kosariabda Kft shall pay Ms. Brooke Queenan an amount of EUR 5,200.00 as a contribution towards her legal fees and expenses.**
4. **Any other or further requests for relief are dismissed.**

Geneva, seat of the arbitration, 21 July 2010

Ulrich Haas
(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."