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We Are Basketball

FIBA Arbitral Tribunal (FAT)

CONSENT AWARD

(0146/10 FAT)

rendered by

FIBA ARBITRAL TRIBUNAL (FAT)

Mr. Raj Parker

in the arbitration proceedings

Mr. Milan Nisic

- Claimant 1 -

Mr. Nenad Sulovic

- Claimant 2 -

Excell SM LLC, Strahinjica bana 18, 11000 Belgrade, Serbia

- Claimant 3 -

vs.

Basketball Club CS Otopeni, Strada 23 August Numărul 10, Otopeni, Bucharest, Romania

- Respondent -



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1. Background of the Award by Consent

1. By Request for Arbitration dated 24 November 2010 the Claimants, through their representative Mr. Miodrag Raznatovic, initiated this arbitration against the Respondent.
2. By letter dated 20 December 2010 the Parties were informed by the FIBA Arbitral Tribunal ("FAT") as follows:

*"This is to confirm that a Request for Arbitration dated 24 November 2010 was filed by Mr. Miodrag Raznatovic on behalf of Mr. Milan Nisic, Mr Nenad Sulovic and Excell SM LLC and received by the FAT on 25 November 2010. The non-reimbursable handling fee of EUR 1,980.00 was received in the FAT bank account on 24 November 2010. The President of FAT has determined that the arbitration can thus proceed and has appointed **Mr. Raj Parker** in this case. A copy of the Request for Arbitration (with exhibits), the FIBA Arbitral Tribunal Rules ("FAT Rules") as well as the FIBA Internal Regulations governing the FIBA Arbitral Tribunal are attached for the Respondent."*

3. That letter also set out a timetable for the further conduct of this arbitration and other procedural directions.
4. By letter dated 22 December 2010 and received by FAT on 27 January 2011 the Claimants' attorney and the Respondent's representative informed the FAT that the dispute had been settled.
5. On 1 February 2011 the Arbitrator issued a Procedural Order requiring the parties to each pay an Advance on Costs in these proceedings of EUR 1,000. On 9 February 2011 the Claimants paid their share of the Advance on Costs. On 14 March 2011 the Respondent paid its share of the Advance on Costs.



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2. The Settlement Agreement of the Parties

6. The agreement recorded in the letter dated 22 December 2010 is as follows:

- "1. CS Otopeni shall pay to Mr. Milan Nisic by 15th March 2011, an amount of 21,300.00 Euro.*
- 2. CS Otopeni shall pay to Mr. Nenad Sulovic by 15th March 2011, an amount of 7,000.00 Euro.*
- 3. CS Otopeni shall pay to Agency Excell SM by 15th March 2011, an amount of 14,350.00 Euro.*
- 4. CS Otopeni shall pay to Agency Excell SM by 15th March 2011, an amount of 5,650.00 Euro.*
- 5. The Settlement agreement and this consent award deemed strictly [confidential], i.e. shall not be disclosed in any manner by any of the parties.*
- 6. Any and all other prayers for [relief] are dismissed.*
- 7. [The] above payments fully cover the handling fee (2,000.00 Euro), and all the legal fees and other expenses of the claimants (2,000.00 euro for advance costs included). In case that any [other] costs (arbitration costs included) occur, each party will bear 50% in total." [sic]*

7. The dispute between the Parties is arbitrable and there is no indication on the face of the record that the settlement agreement signed by the Parties is contrary to international public policy.

3. Costs

8. On 23 March 2011, considering that pursuant to Article 17.2 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



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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 at EUR 2,000.00.



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4. Award

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

- I. Basketball Club CS Otopeni is ordered to pay Mr. Milan Nisic EUR 21,300.00.**
- II. Basketball Club CS Otopeni is ordered to pay Mr. Nenad Sulovic EUR 7,000.00.**
- III. Basketball Club CS Otopeni is ordered to pay Agency Excell SM EUR 20,000.00.**
- IV. Each of the parties to the Arbitration must keep the terms of the letter dated 22 December 2010 and this Award confidential and must not disclose them to any other person.**
- V. Any other or further-reaching claims are dismissed.**

Geneva, place of the arbitration, 24 March 2011

Mr. Raj Parker
(Arbitrator)