BASKETBALL
ARBITRAL TRIBUNAL

ARBITRAL AWARD

(BAT 0421/13)

by the

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Mr. Klaus Reichert SC

in the arbitration proceedings between

Mr. Kaspars Berzins

- Claimant 1 -

Bill A. Duffy International, Inc., dba BDA Sports Management
507 N. Gertruda Ave., Redondo Beach, CA 90277, USA

- Claimant 2 -

both represented by Mr. Billy J. Kuenzinger,
BDA Sports Management, 700 Ygnacia Valley Rd. Suite 330,
Walnut Creek, CA 94598, USA

vs.

BC VEF Riga
Skunu Street 6-6, Riga, LV-1050, Latvia

- Respondent -

represented by Ms. Laila Spalina, BC VEF Riga director

BASKETBALL
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1. The Parties

1.1 The Claimants

1. Mr. Kaspars Berzins ("Player") is a professional basketball player who was retained by BC VEF Riga for three seasons commencing in 2012-2013. Bill A. Duffy International, Inc., dba BDA Sports Management ("Agent") is an agent which acted for Player in relation to his retention by BC VEF Riga.

1.2 The Respondent

2. BC VEF Riga ("Respondent") is a professional basketball club in Riga, Latvia.

2. The Arbitrator

3. On 30 July 2013, Prof. Richard H. McLaren, President of the Basketball Arbitral Tribunal (the "BAT"), appointed Mr. Klaus Reichert SC, as arbitrator ("Arbitrator") pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal ("BAT Rules"). None of the Parties has raised any objections to the appointment of the Arbitrator or to his declaration of independence.

3. Facts and Proceedings

3.1 Summary of the Background and the Dispute

4. On 25 July 2012, Player, Agent and Respondent entered into an agreement ("the Agreement") whereby Respondent engaged Player to play basketball for three seasons commencing in 2012-2013 (clause 1.1). The salary of Player for 2012-2013 was agreed (clause 2.1) at EUR 130,000.00 net of Latvian tax, payable in 10 equal monthly instalments of EUR 13,000.00 on the 15th of each month from September 2012 to June

2013. The salary of Player for 2013-2014 was agreed (clause 2.1) at EUR 150,000.00 net of Latvian tax, payable in 10 equal monthly instalments of EUR 15,000.00 on the 15th of each month from September 2013 to June 2014. The salary (clause 2.1) of Player for 2014-2015 was agreed at EUR 165,000.00 net of Latvian tax, payable in 10 equal monthly instalments of EUR 16,500.00 on the 15th of each month from September 2014 to June 2015. Bonus payments were agreed (clause 3.5) in case of specified on-court successes for Respondent. The Agreement was fully guaranteed (clause 4.1) with all payments being unconditional, not contingent on anything other than Player providing his services.

5. Agent's fees under the Agreement were agreed (clause 6.1.1) as follows: (a) Season 2012-2013, EUR 13,000.00 net, payable on or before 15 January 2013; (b) Season 2013-2014, EUR 15,000.00 net, payable on or before 15 January 2014; and (c) Season 2014-2015, EUR 16,500.00 net, payable on or before 15 January 2015.

6. At the time of the filing of the Request for Arbitration (29 May 2013), Player says that he had been paid EUR 65,000.00 in respect of the salary instalments up to and including 15 January 2013, but has not been paid any of the subsequent salary instalments due to him. Agent says that the fee due to be paid on 15 January 2013, namely EUR 13,000.00, was not paid. Player and Agent refer to various demands for payment made of Respondent in April and May 2013, and also refer to Respondent's position that it required Player to sign its internal regulations. Player and Agent state that by letter dated 16 May 2013, the Agreement was treated as terminated.

7. Respondent contests the validity of the termination of the Agreement, and states its willingness to pay the fees due to Agent and outstanding salaries (minus penalties for inappropriate behaviour) as soon as the "Internal Rules" are signed by Player.

3.2 The Proceedings before the BAT

8. On 29 May 2013, Player and Agent filed a Request for Arbitration of that date in accordance with the BAT Rules.

9. The non-reimbursable handling fee in the amount of EUR 4,000.00 was paid on 3 June 2013. A further sum of EUR 2,000.00 was also paid on that date, and that sum was credited against the Advance on Costs.

10. On 7 August 2013, the BAT informed the Parties that Mr. Klaus Reichert, SC had been appointed as the Arbitrator in this matter. Further, the BAT fixed the advance on costs to be paid by the Parties as follows:

> *"Claimant 1 (Mr. Kaspars Berzins) EUR 2,864*
>
> *Claimants 2 (Bill A. Duffy International, Inc.) EUR 636*
>
> *Respondent (BC VEF Riga) EUR 5,500"*

The foregoing sums were paid as follows (all by Agent): 16 August 2013, EUR 636; 19 August 2013, EUR 2,864.00; 9 September 2013, EUR 3,500.00; and 18 February 2013: EUR 2,000.00.

11. Respondent filed its Answer on 28 August 2013.

12. By Procedural Order dated 13 September 2013 the Arbitrator gave Claimants the right to comment on the Answer by no later than 20 September 2013 (subsequently extended by the Arbitrator to 27 September 2013). Claimants filed their written comments on the Answer on 27 September 2013.

13. By Procedural Order dated 1 October 2013 the Arbitrator invited Respondent to file a rejoinder by 14 October 2013. Respondent filed its rejoinder on 14 October 2013.

14. On 17 October 2013 the Arbitrator enquired of the Parties whether Player was still in Respondent's squad for the 2013-2014 Season. That day, Claimants confirmed that Player was no longer under contract and, therefore, not part of the squad. On 21 October 2013 Respondent stated that Player was part of the squad. In light of the divergent replies received, the Arbitrator gave the Parties the opportunity to comment on the reply of the other by 24 October 2013.

15. On 24 October 2013 Respondent filed its further comments on the issue as to whether Players was in the squad for the 2013-2014 season, and referred, amongst other things, to the fact that Player had attended a Magnetic Resonance Imaging (MRI) Screening. The same day Claimants filed their further comments stating, amongst other things, that the Player's attendance for an MRI was for the Latvian National Team including an invoice in that regard made out to the Latvian Basketball Association.

16. On 25 October 2013 the Arbitrator invited final comments by 8 November 2013. Claimants filed their comments on 6 November 2013. On 8 November 2013 Respondent filed its comments and included documentation (including an invoice), which suggested that the MRI was not for the Latvian National Team, but for the club.

17. On 8 November 2013 the Arbitrator asked the parties to explain how it was possible that there could be two invoices made out to two different parties with different issue dates but in respect of the same treatment administered to Player. The deadline for explanations was set for 13 November 2013.

18. On 12 November 2013 Claimants provided their explanations to the effect that the Latvian Basketball Federation had paid the Clinic's invoice, and that the invoice to Respondent had been cancelled. On 13 November 2013 Respondent provided its explanation.

19. Arising from the replies received, the Arbitrator raised the following specific questions

on 13 November 2013 with replies directed by 20 November 2013:

"- For the Claimants

1. Please explain how the Claimants came into possession of a PDF of a payment document relating to a payment made by the Latvian Basketball Association to the Clinic.

2. Please explain how the Claimants came into possession of Excel spreadsheets issued by the Clinic.

3. Please explain why the email address of "Jana" (who is stated to be belonging to the Clinic) on the copy of the email from her to Mr Toms, is a Gmail address when on the website page it appears that the Clinic has its own unique domain and email address.

4. Who is Mr Kehris?

5. Please supply all correspondence passing between the Claimants and the Clinic.

- For the Respondent

1. Please state whether the invoice it received from the Clinic (as attached to its email dated 8 November 2013) was paid by it and attach payment details.

2. Please supply all correspondence passing between the Respondent and the Clinic about Mr Berzins.

- For both Parties

I have been shown by Claimants an invoice dated 18 September 2013 from the Clinic to the Latvian Basketball Association in the amount of 142.43. According to the PDF of the payment document shown to me by Claimants, this amount was paid on 1 October 2013. I therefore require an explanation why the Clinic would then issue an invoice on 7 October 2013 to the Respondent for the same services in the amount of 155.00 when it had already been fully paid, apparently."

20. On 20 November 2013 the Parties filed their answers.

21. On 22 November 2013 the Arbitrator referred the Parties to Article 12.3 of the BAT Rules and invited them to consider whether they wished him to explore with them as to

the possibility of a settlement. Following replies on 26 November 2013 (from Claimants) and 27 November 2013 (from Respondent), the Arbitrator issued a Procedural Order on 2 December 2013 inviting the Parties to engage with one another over a seven day period to see if a resolution could be identified, and to revert by 9 December 2013. A settlement was not achieved by the Parties.

22. On 8 January 2014, the Parties were invited to submit their statements of costs by 15 January 2014 and were notified that the exchange of documentation was closed in accordance with Article 12.1 of the BAT Rules.

23. The Parties submitted their respective statement of costs by the deadline and were thereafter invited to comment on the costs of the other by 20 January 2014. The Parties submitted their comments on the costs by the deadline.

4. The Positions of the Parties

24. Player's claim for relief, as articulated in the Request for Arbitration, is as follows:

    (a) EUR 65,000.00 for 2012-2013 Season;

    (b) EUR 160,000.00 for 2013-2014 Season; and

    (c) EUR 165,000.00 for 2014-2015 Season.

25. Agent's claim for relief, as articulated in the Request for Arbitration is as follows:

    (a) EUR 13,000.00 for 2012-2013 Season;

    (b) EUR 15,000.00 for 2013-2014 Season; and

(c) EUR 16,500.00 for 2014-2015 Season.

26. Claimants also seek costs and attorney's fees.

27. Respondent seeks a dismissal of claims. Respondent also seeks an imposition of a duty on Player to sign the "Internal Rules". Finally, Respondent states its willingness to pay the unpaid Agent's fee and Player's salary (less penalties) if the Internal Rules are signed.

5. The Jurisdiction of the BAT

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

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

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) PILA.[1]

31. The jurisdiction of the BAT is stated to result from the arbitration clause in clause 9.2 of the Agreement, which reads as follows (in relevant part):

> *"Any dispute arising from or related to the present 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. The arbitration shall be governed by*

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

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 Court of Arbitration for Sport (CAS) upon appeal, as provded in Article 192 of the Swiss Act on Private International Law. The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono."

32. This arbitration clause is in written form and thus it fulfils the formal requirements of Article 178(1) PILA. The reference to FAT is understood to be a reference to BAT (Article 18.2 of the BAT Rules).

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 clause under Swiss law (referred to by Article 178(2) PILA).

34. The Parties have joined issue fully in this arbitration and at no stage has either side called into the question the Arbitrator's jurisdiction to determine all claims made herein.

35. For the above reasons, the Arbitrator has jurisdiction to adjudicate upon the claims.

6. Discussion

6.1 Applicable Law – ex aequo et bono

36. 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 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".

37. Under the heading "Applicable Law", Article 15.1 of the BAT 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."*

38. The Parties have explicitly chosen *ex aequo et bono* in clause 9.2 of the Agreement (recorded in paragraph 31 above).

39. Therefore, the Arbitrator will decide the dispute at hand ex aequo et bono.

40. 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[2] (Concordat)[3], 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 those rules."*[4]

41. 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."*[5]

42. This is confirmed by Article 15.1 of the BAT Rules *in fine*, according to which the

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2 That is the Swiss statute that governed international and domestic arbitration before the enactment of the PILA (governing international arbitration) and, most recently, the Swiss Code of Civil Procedure (governing domestic arbitration).

3 P.A. Karrer, Basler Kommentar, No. 289 ad Art. 187 PILA.

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

5 Poudret/Besson, Comparative Law of International Arbitration, London 2007, No. 717. pp.625-626.

Arbitrator applies "*general considerations of justice and fairness without reference to any particular national or international law*."

43. In light of the foregoing considerations, the Arbitrator makes the findings below.

6.2 Findings

44. The doctrine of *pacta sunt servanda* (which is consistent with justice and equity – parties who make a bargain are expected to stick to that bargain) is the guiding basic principle by which the Arbitrator will examine the merits of the claims.

45. Claimants' claims rely upon the validity of their termination of the Agreement on 16 May 2013.

46. On 8 April 2013 Agent wrote to Respondent drawing its attention to the fact that the Agency Fee of EUR 13,000.00 were unpaid notwithstanding the provisions of the Agreement (recorded at paragraph 5 above) which provided (Clause 6.1.1) that this fee was payable on 15 January 2013. Agent's letter explicitly states that Respondent was in breach of contract and referred to clause 10 of the Agreement. Clause 10 states as follows:

> *"10.1 The CLUB agrees that the PLAYER may void this agreement in the event that:*
>
> *10.1.1 Any payment mentioned by this contract is past due more than thirty (30) days.*
>
> *10.1.2 Any non-economical clause is not performed by the CLUB for thirty (30) days or longer.*
>
> *10.1.3 In such either case 10.1.1) and 10.1.2), as soon as PLAYER and or the REPRESENTATIVE makes such a request in writing to the CLUB officials, PLAYER will be granted his unconditional release and free agency and CLUB shall take all necessary steps to issue a Letter of Clearance immediately. Seventy-two (72) hours after notice has been given, all monies due PLAYER and or the REPRESENTATIVE during the entire term of his agreement shall become immediately due and payable. PLAYER is under no obligation to mitigate his damages and CLUB shall receive no offset."*

47. Respondent replied on 16 April 2013 to Agent and specifically referred to the letter of 8 April 2013. Respondent's position was stated to be that it had no problem with and were willing to pay the Agency Fee, but would only do so as soon as Player signed the Internal Regulations drawing attention to clause 8.4 of the Agreement. That clause states as follows:

> *"8.4 Player must sign club's internal rules within 7 days after signing of contract. Player and club must mutually agree on terms of internal rules."*

48. On 2 May 2013 Agent wrote to Respondent drawing attention to the fact that Player's salary installments of EUR 13,000.00 each for February, March and April of that year were unpaid, and also drew attention to the non-payment of the Agency Fee. Agent specifically warned of the consequences of non-payment beyond 8 May 2013, namely that Player would not play any further, and legal remedies would be sought.

49. On 16 May 2013 Agent wrote to Respondent noting that no payment was made, and that the breach which had been notified earlier had not been cured. The letter stated that Player treated the Agreement as terminated, demanded his Letter of Clearance, and that the full, guaranteed amount of the contract was thereby due and payable immediately.

50. There appears to be no dispute between the Parties as to the fact that when Agent wrote its demand or warning letters in April and May 2013, salary and Agency Fees were due to the Claimants.

51. There also appears to be no dispute between the Parties that Player had not signed any internal regulations of Respondent, and it appears that there had been ongoing discussions about these for some time.

52. The key question is therefore whether Player's non-signature of the Internal Regulations gave rise to a right on the part of Respondent to withhold payment of

salary and Agency Fees.

53. The first sentence of clause 8.4 of the Agreement required (the use of the word "must" signifies a mandatory element) of Player that he signed the internal rules within 7 days of signing the Agreement. However, the mandatory language of the first sentence of clause 8.4 is modified significantly by the second sentence in which Player and Respondent are required to "mutually agree on terms of internal rules". Therefore, clause 8.4 cannot, on any analysis of its terms, give rise to an absolute obligation on the part of Player to sign whatever regulations Respondent puts before him; the Parties did not agree to such a process, and at best the clause seems to operate as either an agreement to agree (which gives rise to many practical and conceptual difficulties of enforcement) or an agreement to negotiate. Had Respondent wanted to place an unqualified obligation on the part of Player to sign internal regulations, then it should have done so in the Agreement; it did not do so. Thus, Respondent's position is unsustainable, namely that clause 8.4 operated to oblige Player to sign internal regulations and until such time as they were signed, payment could be withheld. Put another way, clause 8.4 does not, and cannot support the case which Respondent makes.

54. Even if clause 8.4 were capable of supporting an interpretation favourable to Respondent, namely that there was an unconditional obligation on the part of Player to sign internal regulations (effectively ignoring the second sentence in clause 8.4), the Arbitrator finds it impossible to see how, as a matter of the terms of the Agreement, the payment obligations assumed by Respondent can be suspended or made conditional.

55. As already noted, the Agreement was fully guaranteed (clause 4.1) with all payments being unconditional, not contingent on anything other than Player providing his services. The unambiguous language of clause 4.1 using the formulations such as "fully guaranteed", and "unconditional", cannot leave any room for doubt but that Respondent was obliged to make the payments it contracted to make. Had

Respondent wished to make salary payments conditional on a threshold requirement of signature of internal rules at the outset of the Agreement, then it could have done upon the assumption that Claimants would have agreed to such a provision. The Parties did not strike their bargain in that manner; rather, the Parties expressly agreed that the payments were fully guaranteed, and in no way connected to the signature of Player on internal rules.

56. In summary, even if Respondent were able to demonstrate that clause 8.4 could be interpreted to provide for an unambiguous obligation on the part of Player to sign internal regulations, that still would not be sufficient to displace the obligation on the part of Respondent to pay Player and Agent punctually.

57. The foregoing analysis has the consequence that Claimants were within their contractual rights on 16 May 2013 to terminate the Agreement. Player was owed salary payments from February, March and April – this clearly engaged the provisions of clause 10 of the Agreement which, as already noted, permitted Player to terminate in the event of a 30 day delay in payment of any due sum. Agent was also owed its Agency Fee for several months.

58. Taking into account the provisions of the Agreement, and bearing in mind the facts which are common to the Parties (namely, that several payments were then due to Player, and the payment which was then due to Agent), the Arbitrator finds and holds that the Agreement was validly terminated on 16 May 2013.

59. In light of the fact that the Agreement was terminated on 16 May 2013, the matters raised by Respondent in its letter of 27 May 2013 (including the picture of Player rather adroitly climbing a tree) cannot have any legal consequence. The Agreement was, at that point, terminated. All that remained in existence was Respondent's crystallized obligations to Player and Agent in respect of the remainder of the financial provisions in the Agreement.

60. Notwithstanding the validity of the termination of the Agreement, Respondent also asserts an argument to suggest that Player considered himself part of the squad. It presents photographic proof of Player taking part with the team in celebrations in the latter part of May 2013. The Arbitrator does not see how a player, who has spent the vast majority of a successful season with a team, should be penalized in his contractual dispute by the fact of taking part in celebrations. The Arbitrator does not also see how participation in such a celebration could have the effect of reversing the earlier termination of an Agreement.

61. Respondent also suggests that the non-release of Player by the Latvian Basketball Association is an indication of the continued existence of the Agreement. The Arbitrator does not agree. It is unclear as to the reasons why the Latvian Basketball Association adopted the position which it did. The Arbitrator has followed the evidence and the terms of the Agreement with the result described above, namely that Claimants validly terminated on 16 May 2013.

62. Finally, Respondent argues that Player's attendance for an MRI demonstrates that he was part of the squad. Having assessed the evidence as presented by the Parties in answer to his questions, the Arbitrator accepts the position articulated by Player that the MRI was for the purposes of the Latvian Basketball Association. The preponderance of the evidence leans towards this conclusion and, at its best, the evidence relied upon by Respondent (such as the copy of the mobile telephone message exchange) is equivocal.

63. In summary, Respondent's arguments to suggest that Claimant considered himself to be part of the squad are dismissed.

64. Turning to the quantum of Player's claim, the Arbitrator finds and holds that he is entitled to the relief he seeks for 2012-2013 Season, namely EUR 65,000.00. The Arbitrator does not find that any fines are proved by Respondent as might reduce this

amount.

65. The issue as to Player's claims for 2013-2014 and 2014-2015, would, in the normal course of claims under professional basketball contracts which contain a BAT clause, be subject to well-established principles of mitigation. However, the Agreement has a particular feature which takes this case out of the usual position. As already noted, clause 10, in part, states the following:

> *"Seventy-two (72) hours after notice has been given, all monies due PLAYER and or the REPRESENTATIVE during the entire term of his agreement shall become immediately due and payable. PLAYER is under no obligation to mitigate his damages and CLUB shall receive no offset."*

66. The Parties have expressly and unambiguously lifted the burden from Player requiring him to mitigate his damages in case of termination. Further, Respondent is expressly prohibited from receiving an offset.

67. In light of these highly specific contractual arrangements, it appears to the Arbitrator that the Parties clearly intended that the guaranteed sums payable under the Agreement were protected from any reduction or mitigation. This cannot take Respondent by surprise; it chose to agree these highly specific terms with Player. Respondent argues unjust enrichment in its Answer, however that position is irreconcilable with the precise contractual arrangements to which it agreed.

68. Player, therefore, by reason of the specific and clear terms of the Agreement, is entitled to EUR 150,000.00[6] for the 2013-2014 season and EUR 165,000.00 for the 2014-2015 season. There is an express prohibition in the Agreement on any offset accruing to

[6] In his request for relief, Player asks for EUR 160,000.00. However, in the facts section of the Request for Arbitration and in the Agreement submitted by Player, the amount owed for the 2013-2014 season is stated to be EUR 150,000.00. It thus appears that Player asking for EUR 160,000.00 in his request for relief was a clerical mistake. Even if the request for relief were no clerical mistake, the Arbitrator would not be prepared to award anything more than the EUR 150,000.00 contractually agreed upon.

Respondent, and this unquestionably circumscribes, and emasculates the scope for reduction of these claims.

69. Turning to Agent's claim, the Arbitrator finds that this is established and clear, as a result of the termination of the Agreement. Agent is entitled to the relief it seeks in full.

7. Costs

70. Article 17 of the BAT Rules provides that the final amount of the costs of the arbitration shall be determined by the BAT 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 expenses incurred in connection with the proceedings.

71. On 19 February 2014 – considering that pursuant to Article 17.2 of the BAT Rules "*the BAT President shall determine the final amount of the costs of the arbitration which shall include the administrative and other costs of BAT and the fees and costs of the BAT 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 BAT 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 BAT President determined the arbitration costs in the present matter to be EUR 11,000.

72. Considering that Claimants prevailed in their claims, it is fair that the fees and costs of the arbitration be borne by Respondent and that it be required to cover its own legal fees and expenses as well as those of Claimants.

73. Claimants' claim for legal fees and expenses amounts to EUR 4,000.00, namely the non-reimbursable handling fee and USD 2,275.00. The Arbitrator holds that these

amounts are entirely reasonable and Respondent are liable in respect thereof to Claimants.

74. Given that Claimants paid advances on costs of EUR 11,000.00, as well as a non-reimbursable handling fee of EUR 4,000.00 (which, as noted above, is taken into account when determining Claimants' legal expenses), the Arbitrator decides that in application of article 17.3 of the BAT Rules:

(i) Respondent shall pay EUR 11,000.00 to Claimants, being the costs advanced by them;

(ii) Respondent shall pay EUR 4,000.00 and USD 2,275.00 to Claimants, representing a contribution by it to their legal fees and expenses.

BASKETBALL
ARBITRAL TRIBUNAL

8. AWARD

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

1. **BC VEF Riga must pay Mr. Kaspars Berzins EUR 380,000.00 net as outstanding and accrued salary.**

2. **BC VEF Riga must pay Bill A. Duffy International, Inc., dba BDA Sports Management EUR 44,500.00 net as outstanding and accrued Agency Fees.**

3. **BC VEF Riga must pay jointly to Mr. Kaspars Berzins and Bill A. Duffy International, Inc., dba BDA Sports Management EUR 11,000.00 as reimbursement for their arbitration costs.**

4. **BC VEF Riga must pay jointly to Mr. Kaspars Berzins and Bill A. Duffy International, Inc., dba BDA Sports Management EUR 4,000.00 and USD 2,275.00 as a contribution to their legal fees and expenses.**

5. **Any other or further-reaching requests for relief are dismissed.**

Geneva, seat of the arbitration, 21 February 2014

Klaus Reichert SC

(Arbitrator)