

Sonia Bianchetti Garbato

20151 Milano

e-mail:

Milan February 22, 2012

Open letter to:

Dr. Lawrence G. Mondschein
Chair of the World Figure Skating Hall of Fame Selection Committee
World Figure Skating Hall of Fame Members

I have learned today that my name has been deleted from the list of nominees for the 2012 election to the World Figure Skating Hall of Fame. I am stunned and dismayed, particularly in light of the correspondence with Larry Mondschein described in this open letter. For the sake of history, a copy of that correspondence is attached.

On March 4, 2011, I received a letter from Mr. Mondschein on behalf of the World Figure Skating Hall of Fame in which he stated: *"The fact that you were nominated and on the ballot is a reflection upon your significant contributions to the sport of figure skating and the respect you continue to have from the world skating community."* He indicated in that letter that *"no one received the required number of votes to be elected for the Class of 2011"* but also noted my nomination would *"be kept in our active file and considered next year."*

I understood that to mean my name would be on the ballot this year. Many "electors" of the Hall of Fame have confirmed to me that, in the past, a nominee whose name is included on the ballot will automatically be included on the next 2 following ballots if not elected on the 1st or 2nd. I was also informed, however, that there have been occasions in the past where a candidate got so few votes on a first ballot that his or her name was not included on the subsequent ballots when insufficient support had been provided by electors to justify continued inclusion. I believed that exception did not apply to me in view of the high number of messages I received from electors last year saying they had voted for me. Indeed, on the occasion of the U.S. National Championships in San Jose, a member of the Selection Committee stated in public that I had received 48% of the votes cast last year.

As time passed following the published deadline for making nominations for the 2012 election, I began to receive messages from members of the Hall of Fame inquiring whether I had heard anything about this year's balloting. On January 24, I therefore wrote to Mr. Mondschein asking him if he could clarify to me whether I was on the 2012 ballot and, if not, the reasons for that. I also pointed out that *"It would be a real shame if the integrity of the election process has been corrupted through the efforts of individuals to remove my name from the 2012 ballot when they learned of the balloting results from 2011. The harm that would cause to the sport of figure skating and to the Hall of Fame itself would be very substantial"*. To be frank, some of the messages I received suggested that pressures outside of the Hall of Fame might be brought to bear to keep me off the ballot this year and that was also on my mind when I sent the letter to Mr. Mondschein.

In response to my letter, on February 1 Mr. Mondschein wrote: *"The statement in your second paragraph with respect to nominees who were included on the first ballot and therefore would be automatically included on the ballot for the next two years if not elected is incorrect. As stated in the announcement requesting nominations for the World Figure Skating Hall of Fame Class of 2012, 'The Selection Committee will review all nominations to verify that the candidates meet the selection standards and to approve the candidates to be placed on the official ballot.' There is no*

automatic entitlement for anyone to be placed on the ballot for election to the World Figure Skating Hall of Fame". Other parts of my letter were not addressed, which I found unsettling. But I tried to put myself in Mr. Mondschein's shoes and understand the limitations imposed on him that made his letter less than a model of clarity.

I sent a response to Mr. Mondschein demonstrating that, whether inclusion was "automatic" or based on the standard described in that announcement, the end result would still be the same. Mr. Mondschein did not respond to that letter. Now, 20 days after I sent that response, I learn not from Mr. Mondschein but from a press release that my name was deleted from the 2012 ballot.

Since it is evident now that I am not on the ballot even though I was nominated, I understand that my nomination was "considered" this year but a decision was made to exclude me. With all due respect, that calls into question the integrity of the process unless, of course, Mr. Mondschein can identify what is different this year that would justify deletion of my name. I am aware of only one thing that occurred during the past year after a decision was made to include my name on the ballot for the 2011 election: my eligibility under ISU Rules was questioned, without any basis whatever.

Following the official announcement of my nomination to the Hall of Fame last year, rumours circulated from multiple directions that some USFSA and ISU officials claimed I was not eligible under ISU rules and was "kicked out" or otherwise disciplined by the ISU, even though that is blatantly false. For the sake of history, I bring to your attention the fact that the ISU initiated disciplinary proceedings in 2003 against specified persons who advocated creation of the "World Skating Federation," with a goal of removing their "eligible" status under ISU rules. I was not included in that group. One of the persons who *was* charged actually was exonerated and no sanctions were ever imposed. The two persons in that group who were also officials of the USFSA were similarly exonerated of disciplinary charges under its rules of eligibility. To be sure, the ISU Council unilaterally rescinded my earlier recognition as an "Honorary Referee" of the ISU. Proceedings with the Court of Arbitration for Sport in which I similarly could have had that decision reversed were dismissed on the request of the ISU with its acknowledgment to the CAS that such action was not disciplinary and that I was not suspended or excluded from any ISU event. Indeed, soon after that the ISU Council cancelled all prior awards of "Honorary Referee" and "Honorary Judge." In the process, those awards were removed from persons who were previously elected to the Hall of Fame and remain in it, so such removal cannot have any relevance to being in the Hall of Fame.

Thus, the actions actually taken by the ISU regarding the "Honorary Referee" award do not and cannot support a decision to delete my name from this year's ballot. All facts related to this item were present and publicly known a year ago when a decision was made to include my name on the ballot. No actions even remotely related to this item have occurred in the past year. So even if the unfounded assertions described above actually circulated and reached the attention of persons considering whether to include my name on the 2012 ballot after duly nominated for election, the situation present when the 2011 ballot was circulated *has not changed* for the 2012 ballot, only the way that some persons are mischaracterizing it in an attempt to prevent electors from making the decisions that they *and they alone* should be making.

As noted above, when I wrote my January 24 letter to Mr. Mondschein there was already concern that pressure was being brought by interests outside of the Hall of Fame to exclude my name from this year's ballot. Of course, any attempt to treat that pressure as a "difference" from last year to this would have been improper. It would be proper for Mr. Mondschein to provide authoritative and definitive information as to whether that may or may not have occurred.

Still, I realize that there might theoretically be other reasons why the decision was taken to keep my name off the ballot this year. If so, it can only be seen as a matter of fundamental fairness for Mr. Mondschein to let the Hall of Fame members and me know what those reasons were. It would also have been a matter of fundamental fairness for Mr. Mondschein to have identified any such reason to me, and given me an opportunity to provide information to the Selection Committee on it, before the ballot was finalized if any such reason did come to its attention after the ballot for the 2011 election was determined.

If there actually has been external influence or undue pressure for political reasons for excluding my name from the year ballot this year, the integrity of the process will have been corrupted. That would cast needless and serious aspersions on the legitimacy of all prior and future elections and particularly on the 2012 election.

The Hall of Fame is an institution recognised all over the world as being a totally independent body, ethically absolutely correct, that never would accept any interference or external pressure based on political, religious, racial, personal, or convenience grounds in the selection of the candidates for election. This is why I was very honoured to have been nominated. After all, it is the World **Figure Skating** Hall of Fame, not the World **ISU** Hall of Fame or the World **USFSA** Hall of Fame.

I would like to express to members of the Hall of Fame all my gratitude and appreciation for the esteem, the friendship and the support they have always honoured me with. That it what counts most to me. Thank you all.

Regards

[REDACTED]

Sonia Bianchetti Garbato

Attachments:

- 1) letter of Mr. Mondschein, March 4, 2011
- 2) letter of Sonia Bianchetti to Mr. Mondschein, January 24, 2012
- 3) letter of Mr. Mondschein, February 1, 2012
- 4) letter of Sonia Bianchetti to Mr. Mondschein, February 2, 2012
- 5) extract of ISU document filed by it with the CAS on January 7, 2004
- 6) extract of ruling of the CAS dated February 16, 2004

Copies of the full documents for items 5 and 6 were offered to Mr. Mondschein on February 4, 2012 by the following legal counsel but Mr. Mondschein declined. Similarly, those full documents are offered to Members of the World Figure Skating Hall of Fame if any of you would like to inspect them:

Steven K. Hazen, Esq.
149 South Barrington Avenue, #245
Los Angeles, CA 90017

[REDACTED]
SKHazen@[REDACTED]



Lawrence G. Mondschein, Ph.D.
Chair, U.S. Hall of Fame
U.S. Figure Skating
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Cell: [REDACTED]
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U.S. Figure Skating
Headquarters
20 First Street
Colorado Springs, CO 80906
719.635.5200 Phone
719.635.9548 Fax
usfigureskating.org

March 4, 2011

Sonia Bianchetti-Garbato

[REDACTED]
Milan, Italy 20151

Dear Sonia,

On behalf of the World Figure Skating Hall of Fame, I am sorry to inform you that you were not selected for the World Figure Skating Hall of Fame Class of 2011. The fact that you were nominated and on the ballot is a reflection upon your significant contributions to the sport of figure skating and the respect you continue to have from the world skating community.

This year there were once again many outstanding individuals who were nominated and a select few placed on the ballot, but unfortunately no one received the required number of votes to be elected for the Class of 2011.

You may recall that Mr. Nobuo Sato was elected for the Class of 2010, and his induction ceremony will take place during the World Figure Skating Championships in Tokyo, Japan later this month.

Your nomination will be kept in our active file and considered next year. Thank you for your continued support of the World Figure Skating Hall of Fame.

Regards,

[REDACTED]

Lawrence G. Mondschein, Ph.D.
Chair of Electors, World Figure Skating Hall of Fame

cc: Patricia St. Peter, President
David Raith, Executive Director



Member:
International Skating Union



Member

Sonia Bianchetti Garbato

20151 Milano

e-mail

Milan January 24-2012

Dr. Lawrence G. Mondschein
Chair of the World Figure Skating Hall of Fame Selection Committee

Dear Lawrence,

I remember that by this time last year I had been contacted to see if I had any objection to my name being revealed as a candidate for election to the 2011 World Figure Skating Hall of Fame. I have not been similarly contacted this year. But I am a bit nervous that there may be some other explanation as to why I have not yet been contacted regarding the 2012 election.

I know from the numerous friends eligible to vote in elections to the Hall of Fame ("electors") who contacted me last year that I did receive a very high number of votes. I similarly learned through electors that a nominee whose name is included on the ballot the first time for election to the Hall will automatically be included on the next 2 following ballots if not elected earlier unless the vote totals demonstrate a clear lack of support by the electors for that nominee. My impression is that I did not fall into that latter category.

I suppose there could be other events occurring between ballots that would demonstrate lack of qualification by a nominee, of which there have been none in my case. In that context, I would appreciate it if you could clarify to me whether I am on the 2012 ballot and, if not, what are the reasons for that. It would be a real shame if the integrity of the election process has been corrupted through the efforts of individuals to remove my name from the 2012 ballot when they learned of the balloting results from 2011. The harm that would cause to the sport of figure skating and to the Hall of Fame itself would be very substantial.

I look forward to hearing from you promptly, and I thank you for your kindness.

Sonia Bianchetti Garbato

cc: Members of the World Figure Skating Hall of Fame Selection Committee



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Chair, World Figure Skating Hall of
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February 1, 2012

Sonia Bianchetti Garbato

[REDACTED]
20151 Milano

Dear Sonia,

Thank you for your letter and e-mail of January 24, 2012. You were correct in that I was away last week at the U.S. Figure Skating Championships in San Jose, California. The competition was exciting with a number of memorable performances. We also inducted Michelle Kwan into the U.S. Figure Skating Hall of Fame.

As of today, February 1, 2012, we have not yet announced the individuals who will be included on the World Figure Skating Hall of Fame ballot. However, we do plan to issue the announcement shortly.

The statement in your second paragraph with respect to nominees who were included on the first ballot and therefore would be automatically included on the ballot for the next two years if not elected is incorrect. As stated in the announcement requesting nominations for the World Figure Skating Hall of Fame Class of 2012, "The Selection Committee will review all nominations to verify that the candidates meet the selection standards and to approve the candidates to be placed on the official ballot." There is no automatic entitlement for anyone to be placed on the ballot for election to the World Figure Skating Hall of Fame.

My sincere apologies for the apparent misinformation you have received. Let me assure you that as Chair of the Nominating Committee, the integrity of the World Figure Skating Hall of Fame election process has not been and will not be compromised.

Best regards,

[REDACTED]

Lawrence G. Mondschein, Ph.D.



Member:
International Skating Union



Member

Sonia Bianchetti Garbato

20151 Milano

e-mail:

Milan February 2, 2012

Dr. Lawrence G. Mondschein

Chair of the World Figure Skating Hall of Fame Selection Committee

Dear Lawrence,

Thank you for your letter dated February 1, 2012 referencing my letter to you dated January 24, 2012 in which I inquired about the status of the ballot this year. Your letter does not technically answer the question I raised, but I understand it to mean that my name will be included on the ballot. To be sure, you take exception to the idea that such inclusion would be automatic, even though I have been informed by various electors that they understand that to be the proper procedure. Indeed, some of them indicated they did not feel it necessary to nominate me again as a result of that procedure, although I understand at least one did.

Nonetheless, your letter makes it clear that the end result (inclusion on the ballot) should be the same. Although I did not receive a copy of the announcement requesting nominations for 2012 that you reference in your letter, I did see it on the World Hall of Fame website and noted the text you quoted: "The Selection Committee will review all nominations to verify that the candidates meet the selection standard and to approve the candidates to be placed on the official ballot." As to the first part (verification), I understand that was done with respect to the 2011 election so presumably that component has been met. Certainly, all facts about my involvement in figure skating were fully known by the Selection Committee last year and there has been no intervening event that could even remotely be construed as negating that.

As to the second part (approval for placement on the official ballot), I assume that would not justify arbitrary or capricious action by the Selection Committee so presumably some reason would have to be given for exclusion of a nominee who had been on the 2011 ballot. Moreover, at least one member of the Selection Committee stated in public at your national Championships that I had actually received 48% of the vote in 2011. Any action by the Selection Committee to exclude me based on the second part (approval) would directly contradict the outcome from last year. So I assume that is not the case.

I understand that, as a matter of formality, you may be unable to confirm or deny who will be on the ballot until it is final. In the context of our communications on this, however, I understand that my name will be on the ballot this year as you also confirm that the "election process has not been and will not be compromised."

Please confirm that you or the USFSA headquarters staff provided copies of my January 24 letter members of the Selection Committee and similarly did so for your letter dated February 1. If not, I will obtain contact information for each member to provide them copies directly.

Given the time differences and what appears to be imminent action regarding circulation of the 2012 ballot, please feel free to contact my U.S. representative if you have any questions in this matter. His contact information is shown below.

Regards

[REDACTED]

Sonia Bianchetti Garbato

cc: Members of the World Figure Skating Hall of Fame Selection Committee

Steven K. Hazen, Esq.
149 South Barrington Avenue, #245
Los Angeles, CA 90017

[REDACTED]
SKHazen@[REDACTED]

Court of Arbitration for Sport

Lausanne

RE : CAS 2003/A/532 Bianchetti v/ISU

International Skating Union

Reply and Objection to Jurisdiction

with

Arguments in Support

5 copies

1. The International Skating Union (hereafter ISU) hereby objects to the jurisdiction of the Court of Arbitration for Sport over the subject matter presented by Sonia Bianchetti in her appeal dated December 11, 2003.

17. The Member associations of the ISU have adopted a Constitution to provide for **maximum of independent, autonomous and sovereign governance** of their matters as allowed by Article 63 of ZGB. Under the relevant articles of the Respondent's Constitution only the duly elected bodies of the Respondent may decide internal matters of the federation. No external body or institution may interfere in such activities of the federation except as specifically stated in the Constitution.

18. Such exception is stipulated in Article 23 of the ISU Constitution which is in fact an arbitration clause (agreement) in favour of CAS. The first two paragraphs deal with appellate jurisdiction, the last three paragraphs deal with ordinary arbitration. Article 23, paragraph 1 reads:

“ In a case in which the Appeals Commission decides on suspension or exclusion of a person from an ISU activity, the aggrieved party or the ISU Council may appeal the decision to the Appeals Arbitration Division of the CAS”.

22. In taking action the ISU Council did not act as a disciplinary body but as a policy making body and as the highest executive body of the ISU between the Congresses. The Council was acting on the basis of the general broad powers conferred upon the Council by articles 8, paragraph 10 and 17, paragraph 1, a), which read:

*“All matters of the ISU are controlled 1) by Congress 2) by Council”
(Article 8), and*

*“The functions of the Council include:
a) determining the policies and management of the affairs of the ISU . . .”
(Article 17, paragraph 1.a.)*

26. The appealed decision does not suspend nor does it exclude Sonia Bianchetti from any ISU activity. The degree of Honorary Referee does not entitle the holder to any activity and therefore the withdrawal of the degree does not cancel any activity.



Tribunal Arbitral du Sport
Court of Arbitration for Sport

ORDER

pronounced by

**The President of the Appeals Arbitration Division
of the Court of Arbitration for Sport**

in the arbitration between:

Sonia **BIANCHETTI GARBATO**, Milan Italy

Appellant

and

INTERNATIONAL SKATING UNION (ISU), Lausanne, Switzerland

Respondent

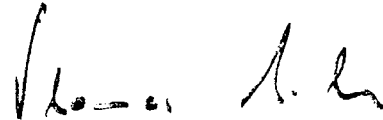
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3. In a statement dated 7 January 2004, the ISU filed an objection to the jurisdiction of the Court of Arbitration for Sport in this matter, considering "that it is apparent at the outset that there is manifestly no agreement or provision in the ISU Constitution which permits Sonia Bianchetti to arbitrate the claim stated in her appeal before the CAS". The ISU considers that the conditions provided by art. 22 § 2 and 23 § 1 of the ISU Constitution does not allow CAS to entertain the present appeal as no sanction of either suspension or exclusion from any ISU activity is involved/In conclusion of its objection to jurisdiction, the ISU formally requests that the President of the CAS Appeals Arbitration Division "orders that the CAS has no jurisdiction". Furthermore, the ISU states that it does not agree with the request for a stay of the execution of the appealed decision.
-
7. Both parties have based their arguments regarding the CAS jurisdiction on art. 23 § 1, first sentence of the ISU Constitution: "In a case in which the Appeals Commission decided on suspension or exclusion of a person from an ISU activity, the aggrieved party or the ISU Council may appeal the decision to the Appeals Arbitration Division of the Court of Arbitration for Sport (CAS), Lausanne, Switzerland".
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12. In its decision, the ISU Appeals Commission inserted the following paragraph: "Against this decision, there is no further appeal within the ISU. Art. 23 § 1 of the Constitution (Appeal to the Court of Arbitration for Sport) is not applicable, because topic of the case is not a suspension or an exclusion from an ISU activity. Reference is given to art. 22, § 2, second sentence of the Constitution".
13. The issue to resolve here is to determine whether the present case involves the suspension or exclusion of the aggrieved party from an ISU activity.
-
16. In view of the above, the title of ISU Honorary Referee implies unequivocally that the person holding this title does not have to perform any particular function or to exercise any activity within the ISU.
17. Therefore, the jurisdiction of CAS in the present matter cannot be based on art. 22 and/or art. 23 of the ISU Constitution.

ON THESE GROUNDS

The President of the Appeals Arbitration Division of the Court of Arbitration for Sport rules:

1. The CAS has no jurisdiction to hear the appeal filed by Sonia Bianchetti on 11 December 2003.
2. The arbitration procedure CAS 2003/A/532 shall be deleted from the CAS roll.
3. The present order is rendered without costs.

Thus done in Lausanne, 16 February 2004



Thomas BACH
President of the
Appeals Arbitration Division