



Report of the IOC *ad hoc* Commission to Investigate the Conduct of Certain IOC Members and to Consider Possible Changes in the Procedures for the Allocation of the Games of the Olympiad and Olympic Winter Games

**Presented to the IOC Executive Board
Lausanne
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Establishment of the *ad hoc* Commission

The President of the IOC has established an *ad hoc* Commission to investigate the facts relating to allegations of improper conduct on the part of IOC members in relation to the candidacy of Salt Lake City for the 2002 Olympic Winter Games and to make recommendations regarding the outcome of such investigation, both as to the IOC members involved and the standard of Conduct applied to IOC members and to candidate cities in the award of the Olympic Games to host cities.

Factual Background

In late November, 1998, a report appeared in the Salt Lake City media, alleging that the daughter of the late member of the IOC, René Essomba, had received educational assistance from the Salt Lake City bid committee and that the Salt Lake Organizing Committee ("SLOC") had written a letter to say that the assistance could no longer be continued and that the payment referred to in the letter would be the last payment to her. It appears that this letter may have been a fabrication of some sort and that, if it existed at all as a genuine document, it had never been sent by SLOC. The amount of the cheque referred to in the document does not, apparently, match any cheque located in the SLOC or bid committee records. The letter was received (anonymously) by a member of the SLOC Board on or about October 8, 1998, but no action of a public nature had been taken prior to the report of the matter in the press. Public disclosure of the letter prompted an internal investigation by SLOC of the documents in its possession, both *qua* OCOG and as the successor to the records of the bid committee.

On December 1, 1998, the IOC President sent a letter to the President of the IOC Juridical Commission requesting the IOC Juridical Commission to investigate the Essomba allegations and to report on this issue to the IOC Executive Board.

The investigation by SLOC revealed that the bid committee had established a financial assistance programme, described as an "NOC Support Program," purportedly aimed at developing countries. This programme was apparently established in late 1991 or early 1992, after the close loss which Salt Lake City experienced with respect to the 1998 Olympic Winter Games, which were awarded to Nagano. It is not clear exactly to what degree the existence of the programme was known by the bid committee as a whole, although we are advised by SLOC that it appears as a line item in the audited financial statements of the bid committee. It seems clear from the evidence given, to date, by SLOC that the programme was administered principally by Thomas Welch ("Welch"), the president of the bid committee and later president of SLOC until his resignation in 1997. David Johnson ("Johnson"), then Executive Vice-President of SLOC and one of the few members of the bid committee who had survived the transition from bid committee to Organizing Committee of the Olympic Games (OCOG), was aware of the existence of the programme and active in its implementation.

SLOC delivered a summary of its own and the bid committee's accounting records pertaining to the programme to the IOC President on December 10, 1998. This summary (which was a work-in-progress, based on what had been located to date) indicated that payments had been made, *inter alia*, to or for the benefit of members of the family of several IOC members and that other payments had been made to or for the benefit of persons designated by IOC members and charged to the programme. In addition, it appeared that cash payments had been made to some members.

The IOC President received this information during the course of a meeting with SLOC executives on December 10, 1998. On December 11, 1998, he established the *ad hoc* Commission, consisting of Thomas Bach, Kéba Mbaye, Richard W. Pound (Chairman), Jacques Rogge and Pál Schmitt, and to be coordinated by the IOC Director General, François Carrard. The mandate of the Commission is to investigate the facts relating to allegations of improper conduct on the part of IOC members arising from the Salt Lake City revelations and to make recommendations for consideration by the Executive Board. This Commission took over the responsibilities previously assigned to the IOC Juridical Commission.

Work of the Commission

The Commission met following the meeting of the Executive Board on December 11, 1998. The other persons present were Johnson, Frank Joklik ("Joklik"), past president of the bid committee and then the President of SLOC, and Kelly Flint, Senior Vice-President of Law and Marketing ("Flint"), all from SLOC. Kéba Mbaye was not able to be present on this occasion for professional reasons.

The document delivered to the IOC President was disclosed to the members of the Commission and Flint described the methodology employed to produce it. The document is a summary of the general ledger of the bid committee records for the NOC Support

Programme.¹ The "start date" for the summary was 1991 and the material had been assembled by Gordon L. Crabtree of SLOC. The paper records have been pulled out, including the cheque requests and the Commission was advised that the cancelled cheques are available in respect of each payment.

It appears that the bid committee started a file for each IOC member beginning in 1989, which file contains all correspondence to and from each member from that time on and which may also contain certain memoranda generated by the bid committee personnel.

The names of several IOC members appeared in the records as having received payments, together, in certain cases, with the names of members of their families. In addition, certain of the payments charged to the programme were said by Johnson to have been made at the specific request of certain IOC members.

At this meeting, the SLOC representatives provided only limited facts and background. They defended the programme and took the position that the payments were not connected with the bid and that there was no *quid pro quo* pertaining to them, i.e., no promise of support for the bid. The evident connection with the bidding process and the date profile of the payments were, however, inescapable, pending further investigation and subject to any exculpatory explanations which might be provided. It was also clear that they feared that the IOC might decide to remove the Games from Salt Lake City were the bid committee to be determined to have acted improperly. Johnson acknowledged that the IOC rules for bidding cities had been received by the Salt Lake City bid committee. He also stated that the IOC did "nothing to protect bidding cities" from pressures put on them by certain IOC members.

The SLOC representatives were asked specifically about payments made to a certain Mahmoud El Farnawani, an individual living in the Toronto, Canada, area in the aggregate amount of approximately \$161,000. They stated that he was retained as a lobbyist at a monthly stipend of \$3,500 (later increased to \$5,000 as more time was spent on the assignment) on the basis that he was familiar with and might be able to influence members from the North African region to support the Salt Lake City bid. They said that no payments were made to El Farnawani other than his consulting fees and travel expenses.

The meeting terminated with the Commission seeking and obtaining a firm commitment from SLOC to tell the entire story and to make available to the Commission all of its records.

¹ No names of any IOC members have been released by the Commission to the media, pending an examination of the facts and a request for explanation of any conduct which appears to require such explanation. There have, however, been leaks and speculation on the part of the media, on which the members of the Commission have refused to comment.

On December 12, 1998, IOC Executive Board member Marc Hodler began to make what would become a series of public statements, loosely grouped around allegations of "massive corruption" within the IOC in relation to the allocation of the Olympic Games. The statements, which were lacking in particulars, also appear to have included allegations of improprieties in the allocation of certain Fédération Internationale de Ski ("FIS") events during his presidency of that organization. It came as no surprise that such allegations caused enormous reaction within the media and they have been widely circulated. It was especially difficult because the Commission had just been established and was in the process of beginning to determine what facts existed with respect to Salt Lake City and was not, therefore, in a position to indicate any concrete results of its own investigation, which might have served to mitigate the damage.

Given the importance of the allegations made by Marc Hodler, his undoubted prominence as a very senior member of the IOC, the author and follow-up of the so-called "Hodler Rules" designed to limit the expenses incurred by candidate cities, as well as the President of the FIS for almost 50 years, the Commission was anxious to meet with him to learn the facts which would substantiate the allegations which he had made. The Commission met with Mr. Hodler following the IOC Executive Board meeting on December 12, 1998. It came as a considerable surprise to the Commission that Mr. Hodler stated that he had no personal knowledge of any inappropriate action on the part of any member of the IOC. He stated that everything he knew was entirely hearsay evidence, the truth of which he was unable to verify personally.

The Chairman met with Flint at breakfast on December 13, 1998 to discuss the files and the method by which those files would be assembled for examination by the Commission. Flint said that the files from which the information now in the hands of the Commission had been taken were locked in his office in the SLOC headquarters. In addition, Johnson apparently has certain files in his possession. Welch had taken some material with him when he resigned as president of SLOC and Flint was not certain what might have been contained in those files. Flint undertook to take possession of whatever files were at SLOC and to prepare them for examination. The Chairman offered to provide whatever assistance might be useful for purposes of assembling the relevant material and to visit Salt Lake City for that purpose, either alone or with another member of the Commission, prior to the end of the year. The Chairman stressed that it was important that the matter be given the highest priority and that the material be available before the end of the year. Flint undertook to deal with the matter on an urgent basis and to report regularly to the Chairman on his progress.

Following the meeting of the IOC Executive Board on December 13, 1998, the Commission met further with the SLOC representatives, this time including Robert Garff, the Chairman of SLOC. Between the previous meeting with the Commission and the December 13, 1998 meeting, the IOC Executive Board had publicly confirmed its confidence in SLOC and its current management, in furtherance of the commission's undertaking to recommend this course of action in return for full disclosure and cooperation on SLOC's part.

On the matter of lobbyists, Johnson said the bid committee used three or four, of whom El Farnawani was one. He said no "performance bonus" was paid to him. He also said that Mutaleb Ahmad (Secretary General of OCA) was another, to whom they paid a total of \$57,600, and that Goran Takatch was never involved. In South America, they had used Frank Richards, a local businessman with considerable South American experience, but they are convinced he would not have used financial means.

On December 21, 1998, Flint called to say that the SLOC team had been continuing its work on the records and had assembled further summaries of payments allocated to the various IOC members. In addition to the payments described in the document left with the IOC President, they had found additional evidence of payments made by wire transfer to certain IOC members. They still had to check on the "receipt" side of their records to determine whether any of the payments on the "expense" side had been reimbursed, so the document should be regarded as incomplete at this stage. Flint agreed to send a copy of the summary to the Chairman by courier. It appears that Welch had taken some files with him when he left SLOC and they are not aware of the contents of such files. Welch had been contacted and had expressed his willingness, at that time, to help the IOC with its investigation.

Expanded Summary of Payments Provided by SLOC

The summary was received by the Chairman on December 22, 1998. It contains five separate tabulations:

1. All payments to specific IOC members
2. All payments to relatives of IOC members
3. All "other" payments, including consultants
4. Payments relating to the "NOC Assistance Program" (scholarships)
5. Master list of all payments by type of spending

This analysis does **not** include travel expenses, meals and entertainment and similar items. This summary does not include items, services and other benefits which, for one reason or another, did not pass through the accounting records of the bid committee or SLOC.

Other Investigations Relating to Salt Lake City and Implications

On behalf of the Commission, the Chairman visited Salt Lake City on December 29-30, 1998, accompanied by James Asperger of O'Melveny & Myers, the U.S. lawyers the IOC has used for television and other matters in the past.

SLOC have hired Latham & Watkins as their own outside counsel to conduct an internal review. The Chairman met with them (principally Barry Sanders and Beth

Wilkinson) and found them to be very good and fully cooperative. He also met with three members of the Ethics Review Board of SLOC, which is conducting its own investigation. He found them to be serious and very thorough and was satisfied that they would continue to be very thorough. Their report will be public and it will disclose all of the facts that they consider to point to unethical conduct, the underlying documents and the names of all the people involved, including IOC members. Before doing that, they will invite the individual IOC members to provide an explanation. The deadline established by the SLOC Board of Directors for the issuance of their report is February 11, 1999.

The USOC investigation is headed by former U.S. Senator George Mitchell.

The United States Department of Justice has announced that it is also conducting an investigation. Such investigations typically take longer than others to complete, which means that the general uncertainty surrounding the Games will likely drag on longer than might otherwise be the case. The SLOC counsel have been in contact with the Department of Justice and have offered full cooperation. We understand that their position is that there has been no "crime" committed - that there may have been questionable and objectionable behaviour, but nothing criminal. In any event, if all the facts are made available to the Department of Justice, it may shorten the investigation, which is at least some advantage in the ongoing issue of organizing the Games. The Department of Justice has apparently nevertheless issued grand jury subpoenas to SLOC and several individuals. The issuance or potential issuance of such subpoenas has made several people who might otherwise be willing to help with the IOC investigation reluctant to do so.

Following the meeting in Salt Lake City, SLOC forwarded copies of the detailed records and correspondence files to the IOC. In order to meet the deadline of January 24, 1999, it was determined that a small working group consisting of Thomas Bach, François Carrard and the Chairman should review these documents on a preliminary basis for purposes of preparing the files in order to determine whether it would be necessary to call for some explanation from the members concerned. On the basis of this review, letters were prepared to 13 members. The process was reviewed by the other members of the Commission and their concurrence obtained regarding the procedure to be followed. Accordingly, on January 11, 1999, letters signed by the IOC President were sent, calling for written responses to be received by the President not later than January 19, 1999 and advising them that they could ask to be heard before the Commission on January 23, 1999.

The Commission met, by conference call, on January 14, 1999 to review the status and to consider the possibility of a meeting of the Commission in New York on January 20, 1999. It was agreed that it would be useful to do so, to be updated on the work of SLOC and to have the opinion of U.S. counsel on the other investigations which are under way. All members of the Commission, with the exception of Kéba Mbaye, were able to make the necessary arrangements to attend.

On January 14, 1999, the Chairman spoke with Welch, who declined to come to either New York or Lausanne to meet with the Commission. He did, however, agree to speak informally with the Chairman in respect of the 13 members involved in the investigation.

On January 20, 1999, the Commission met in the offices of O'Melveny & Myers. The meeting was attended by the Commission, A.B. Culvahouse and James Asperger of O'Melveny & Myers, and Barry Sanders of Latham & Watkins. Sanders brought the Commission up-to-date on the results of the internal audit and provided supplemental information. On the basis of the information provided, a second letter was sent to one of the members affected, calling for an explanation of the new facts. Sanders said that there were some further refinements on the particular amounts, but that, apart from the one piece of new information which had led to the second letter to the member affected, there had been no additional members within the categories established by their initial analysis. He indicated that the SLOC analysis did not consider the matter of gifts of value-in-kind (e.g., medical services, hospital services and other benefits) which are not recorded as such in the SLOC records.

On January 21, 1999, the Chairman delivered the keynote address at the Sports Summit in New York, in which he explained the activities of the Commission and the firm resolve of the IOC to root out those who have acted improperly.

The Commission met in Lausanne on January 22 and 23, 1999. The purpose was to review the situation as it existed at the time and to meet with those members who have requested an opportunity to appear before to meet with the Commission. At the conclusion of these meetings, the Commission deliberated and prepared its recommendations to the IOC Executive Board.

Three IOC members involved have resigned and one has died. No further proceedings in expulsion against them on the part of the IOC are, therefore, possible under Swiss Law.

Standards of Conduct Applicable to IOC Members re Choice of Host Cities

The Commission began its analysis of the subject matter of its mandate by considering the duties and responsibilities of IOC members under the provisions of the *Olympic Charter*, taking into account the role of the IOC within the Olympic Movement generally, the role of IOC members, as disclosed by the oath they take when becoming members, the grounds for exclusion and the particular circumstances of choosing host cities for the Olympic Games.

The IOC is a private association, under Swiss law; its domicile is in Lausanne, Switzerland. It is governed by the Olympic Charter and the provisions of Swiss law (art. 60 ss Swiss Civil Code).

The members of the IOC are acting in their private capacities as volunteers to serve the Olympic Movement. As part of their Olympic oath they pledge to keep themselves “free from any political or commercial influence”.

The Olympic Movement has always been different from sports organized for commercial profit because it rests on the philosophical and ethical base of Olympism. It accepts the higher standards of behaviour which this demands and imposes codes of behaviour on athletes and officials that are not universally matched in other sports. The IOC will, for example, be hosting a World Conference on Doping in Sport in Lausanne from February 2-4, 1999.

The Commission considers it self-evident that the IOC, as an organization, must uphold the highest standards of conduct. It cannot accept or condone lower standards than those it demands of the other members of the Olympic Family. A necessary corollary of this position is that the individual members of the IOC must exemplify such standards of behaviour. They are members of the highest body of the supreme authority of the Olympic Movement.

The mandate of the Commission is limited to consideration of the actions of certain members of the IOC in the context of selecting host cities for the Olympic Games, in particular (but, depending upon the facts that may be disclosed, not necessarily limited to), the 2002 Olympic Winter Games in Salt Lake City. In recent years, the positive economic impact of hosting the Olympic Games has changed dramatically, due in large measure to the huge increases in television rights fees and sponsorships negotiated by the IOC and the domestic sponsorship possibilities available to OCOGs as a result of the IOC granting permission to them to use the Olympic rings in their emblems. In a very short period of time, the Olympic Games have changed from being a potential financial burden on a host city to an opportunity to attract billions of dollars to the host country or community. This factor necessarily increases the stakes of any Olympic bid as well as the amount invested in the bid in order to be successful. With all this, unfortunately, comes increased opportunity on the part of candidates and deciders alike to be exposed to conduct which may be questionable.

Many Olympic candidate cities will build the necessary facilities if they win the bid, but may well not do so if they are unsuccessful. Thus, many of the facilities which the IOC members are “inspecting” are little more than blueprints or computer-generated models of what may be there several years in the future. IOC members also have the benefit of knowing that the installations will, in the final analysis, require the approval of the International Federations (IFs), so they do not have to worry too much about the sports competition aspects of the eventual Games which may be held in the candidate city.

This leads, inevitably, to a situation in which the candidate cities are concentrating more on impressing the IOC members with their hospitality and friendship, some of which, over time, may well become genuine, especially in the case of candidate cities which have not been successful on their first attempts. Over a period of six or more

years, the “business” element may become merged with a personal friendship. On the other hand, IOC members must continue to be aware that whatever relationship may develop has its roots in the fact that there is a candidate city involved on the one hand and a person who can play an important role in determining the success or failure of that candidate city on the other. And they must remember that the selection of host cities is the most important of the actions they perform every two years. The Olympic Games are the engine of the entire Olympic Movement and it is essential that every edition of the Games be successful.

Against this background, the Commission considered whether it should express the responsibilities of IOC members in a positive sense, i.e., what they should do in relation to candidate cities. This was not considered feasible because of the incalculable variations of circumstances which might arise.

Instead, the Commission developed a description of conduct which it considers to be incompatible with the status of an IOC member. It does not purport to be a definitive list, and should not be considered as such, but it was sufficient to enable the Commission to deal with the facts which have thus far come to its attention.

Actions which are incompatible with the status of a member of the IOC in relation to candidate cities are those which are, or may reasonably be perceived to be, an abuse of the power, position or influence of an IOC member, including requests, directly or indirectly, for assistance or intervention of any nature that may be perceived as such, or any actions which lead a candidate city to believe that it may be to its advantage to act in a particular manner, or that it may be to its disadvantage not to act in such a manner. Such inappropriate actions include the following:

1. Accepting any of the following material benefits:

- a. money,**
- b. goods or services having no relation to the candidacy,**
- c. non-emergency medical services,**
- d. gifts which are patently out of the range of customary exchanges;**

2. Accepting or permitting the acceptance of material benefits for family members or relatives, including scholarships, living expenses, medical services and employment;

3. Accepting or directing benefits to third parties (except arm’s-length sports or Olympic-related programmes the terms of which are public knowledge and where the publicly-expressed criteria are implemented); and

4. Accepting excessive hospitality from a candidate city, in particular, multiple visits or bringing more than one accompanying person.

These formulations are directed toward the IOC members only. The Commission does not intend to make findings regarding the Salt Lake City bid committee. There are other investigations which have that as their objective and which are proceeding in parallel with the Commission's investigation. All that need to be said is that there were, in each case, two parties to each of the circumstances or events upon which the Commission will report. Whatever may be the degree of culpability on the part of any candidate city, the members of the IOC are responsible for the standards of their own conduct. This is not to say, however, that the standards referred to above are applicable only in respect of Salt Lake City. In the Commission's view, they apply now and have always been applicable.

In examining the facts of each situation, the Commission has asked itself the following questions:

1. Would the member of the IOC requesting the action or service have done so had the other person involved not been a representative of a candidate city to host the Olympic Games?
2. Would the candidate city have acted as it did were the individual involved not a member of the IOC, a family member or a person designated by the IOC member?
3. What is the connection, if any, between the particular expenditure and the reasonable costs of a candidate city to obtain the Olympic Games?

Each of the formulations, given the knowledge and experience of IOC members and certain specific rules that have been adopted in relation to candidate cities, is, in the view of the Commission, sufficient to indicate whether there was an abuse of the status of the IOC members involved. None of the situations in which the Commission has recommended exclusion was the result of accidental or inadvertent conduct; in each case it was conscious and knowing. In each case, the IOC member involved knew or should have known that if such conduct came to light in the context of a candidate city's efforts to attract the Games, it would reflect badly on the reputation of the IOC, as the events to date have indicated all too clearly.

The Commission has made its recommendations with the full confidence that the standards they reflect are no higher than those which the vast majority of IOC members understand and accept as compatible with their status as IOC members.

While the Commission has not had full access to the facts pertaining to the matter of gifts, it may not be unreasonable to expect that an analysis of the evidence might show that in many cases, the value of gifts to IOC members exceeded the limit contained in the so-called "Hodler Rules."

To some degree, there is an international practice and custom of giving gifts within the Olympic Movement and it has become almost a matter of protocol to do so. The IOC President, for example, is constantly giving gifts to persons he meets in his official capacity and receives many gifts in his capacity as President of the IOC. The latter are passed on to the Olympic Museum or remain on display at the IOC headquarters in Lausanne. Whatever one may think of the custom, there is nothing improper in the practice.

The same practice has built up over the years in relation to candidate cities, whereby when IOC members visit candidate cities, the bid committee presents one or more gifts on the occasion. In general, these are standard gifts, the same for all IOC members who visit and there is no intention on the part of candidate cities nor perception on the part of IOC members that such gifts are linked in any way with support for that particular candidate city. It is simply a matter of courtesy and generalized promotion of the city. Concern has, however, been expressed about such gifts and the value thereof, which has led to the guideline contained in the Hodler Rules. This guideline was designed for the benefit of the candidate cities, to help minimize the costs of the candidacy.

It is clear that many candidate cities have not respected that limit with regard to the value of gifts. The Hodler rules contain no specific sanctions should the value of such gifts exceed the stipulated amount. The IOC members do not request that they receive gifts. If gifts are received, IOC members are in a somewhat awkward position. It is difficult to refuse or return a gift without risking that the donor will be insulted. Nor is it polite, having received an unsolicited gift, to ask how much it may have cost. The same may not be true with respect to individualized gifts, but the normal protocol gifts have become routine (whatever their cost) and have no possible effect on the outcome of any candidate cities' efforts to attract the Games.

The difficulty, however, is one of perception. Despite there being no linkage between the gifts and the result, the IOC is portrayed in a bad light. It is for these reasons, among others, that the Hodler Rules relating to gifts were adopted.

Principles of Swiss Law

The provisions of the Swiss Civil Code provide only for expulsion (art. 72 CC). No mention is made of other sanctions.

For its part, the Olympic Charter also provides for expulsion as the only sanction applicable to IOC members (Rule 20.3.4).

Apart from the above-mentioned provisions, the relationship between an association and its members is subject to the general principles of the Swiss legal system, in particular the principles of legality and of equality of treatment.

a. Principle of legality

It is universally accepted in Swiss law that the measures and sanctions within an association are governed by the **principle of legality**.

As a result, sanctions which do not appear in the rules cannot be imposed on members. (Baddeley, "L'association sportive face au droit", Basle and Frankfurt-am-Main, 1994, p. 229; Bodmer, Vereinstraffe und Verbandsgerichtsbarkeit, St-Galler Studien, vol. 18, Bern, 1989, page 90; Daepfen, Rechtsprobleme des schweizerischen Tennissports und seiner Verbandsstrukturen, Zurich, 1992, page 250; Heini, Die Vereine, Schweizerisches Privatrecht, vol. 2, Basle, 1967, page 60).

Rule 20.3.4 of the Olympic Charter reads as follows:

"An IOC member or honorary member may be expelled by decision of the IOC Session if he has betrayed his oath or if the Session considers that such member has neglected or knowingly jeopardized the interests of the IOC or has acted in a way which is unworthy of the IOC."

The sanction for which it provides therefore respects the principle of legality.

b. Principle of equal treatment

Equality of treatment, deduced from article 4 of the Federal Constitution, is a general principle which governs the whole of the Swiss legal system.

The principle of equality prevents situations which are fundamentally different from being subject to the same treatment. Such an obligation leads to decisions being taken on the basis of the **same criteria**.

In regard to sanctions against members of an association, it is considered in Swiss law that differences of treatment are necessary on the basis of objective criteria and, in principle, according to the object of the association (Baddeley, p. 109; Egger, Die Vereine in Zürcher Kommentar, Zurich 1930, 2nd part, pp. 397-467 p. 453; Heini, op. cit., p. 47; Perrin, Droit de l'association, droit civil V, Editions universitaires, Fribourg, 1992 p. 68; Bodmer, op. cit. p. 99; Corbat, Les peines statutaires, Fribourg, 1974, p.82).

The Commission therefore notes that only the following proposals can be made to the Session in respecting the principles of the Olympic Charter and of Swiss law:

- that the IOC member be expelled (Rule 20.3.4 of the Olympic Charter),
- that the IOC member not be expelled,

where the difference in treatment must be based on objective criteria.

The Commission notes that the proportionality rule should be observed, and the right of the member to due process guaranteed.

Definition of Criteria

In view of the above, the Commission established criteria for making its recommendations to the Executive Board.

To this end, it based its action on the following considerations:

the members constitute the supreme organ of the IOC,

the IOC is, for its part, the supreme authority of the Olympic Movement,

once given the honour of belonging to the IOC, members have agreed to fulfil their obligations by swearing the Olympic Oath,

in doing so they have undertaken *inter alia* to serve the Olympic Movement and respect the IOC's decisions,

pursuant to Rule 20.1.1 of the Olympic Charter, the IOC chooses and elects its members from among such persons as it considers qualified.

Consequently, the Commission considers that it is justifiable to exclude members who, in the framework of the awarding of the Olympic Winter Games to Salt Lake City, committed actions which are incompatible with their status of a member of the IOC.

By their conduct, such members have been unworthy of and jeopardized the interests of the IOC; they therefore no longer appear worthy to serve the Olympic Movement.

The Olympic Charter is particularly severe on members of the IOC whose behaviour is not impeccable in all respects. Such behaviour leaves the IOC with only two alternatives: either the implicated member is expelled or he or she is not. The Charter makes no provision for sanctions against members of the IOC. It is evident that the applicable sanction of expulsion has particularly painful consequences, especially on a human and personal level, for those who are expelled from the institution. Moreover, owing to its absolute nature, expulsion indiscriminately punishes members, although the extent of their responsibility, fault and worthiness, especially with regard to the motives for their behaviour, may vary considerably. Any member whose behaviour has been inexcusable in all respects will be expelled. The same will apply to any other member whose honesty is irreproachable, but who might, through an error of judgement, unwittingly have behaved to the detriment of the institution. The expulsion of a member therefore does not necessarily imply that he or she is corrupt. The expulsion procedure is not a legal procedure. We are not dealing with a criminal, or even a disciplinary, inquiry.

The aim is not to find proof of corruption, which would in any case be impossible unless confessions were made, but simply to find whether members have behaved in a way which is unacceptable to the institution.

In other words, the aim is not to judge certain acts as reprehensible or illicit, but to decide whether an organization should dispense with the services of any of its members; in this regard, the merest suggestion of any unacceptable behaviour may be enough.

To appreciate the real significance, the extent and the possible consequences, both on a human and personal level, of a decision to expel a member, we must take into account the fact that expulsion makes no distinction between men and women whose behaviour may vary from negligence or carelessness to totally reprehensible acts. It is thus evident that the provisions made by the IOC are far from being lax; on the contrary, they are particularly harsh in that they make no provision for sanctions, only for expulsion.

The International Olympic Committee stresses that members whose expulsion is proposed are not accused of any crime or offence; they are men and women who certainly have made mistakes, but should not be stigmatized or treated like unworthy human beings.

Having said that, and whatever the failings of certain members of the IOC, the Commission has been surprised by the behaviour of the Salt Lake City bid committee and some of its senior members. A study of the evidence and the hearings of the Commission have revealed that the bid committee itself established a system of alleged grants, which in reality consisted for the most part of subsidies paid to members' children. Without wishing to make any excuses for the failings or shortcomings of IOC members, the Commission would like to let others judge such behaviour and draw appropriate conclusions for themselves, but would point out that such a structure was developed in a context of genuine, often lasting and sometimes very close friendships, which were formed and grew over many years, between certain IOC members and certain senior members of the bid committee.

IOC members are completely independent; they are not bound by any contract, carry out their duties in a voluntary capacity and enjoy complete freedom in their actions. They receive no instructions or orders, least of all regarding the exercise of their right to vote. They cannot be suspended. Because of the strict requirements of the regime in force within the IOC (no provision exists for sanctions against members, only for exclusion), the IOC can take action against a member only on the grounds of known facts and not on the basis of hearsay.

Commission Recommendations to IOC Executive Board

In accordance with the mandate conferred upon it, the Commission submits its recommendations. These recommendations are based on the factual information that we

have been able to gather to date. SLOC has cooperated fully with our investigation, but its work is ongoing and may reveal additional facts. We have also not yet had the benefit of the factual information being gathered by Salt Lake City Ethics Committee or the United States Olympic Committee. Nor have we yet been able to obtain information about "in kind" benefits that may have been given to members of the IOC. And, as previously announced, we are recommending that the Executive Board expand the scope of the IOC investigation by authorizing the IOC President to ask prior Olympic Bid Committees to submit information about any IOC members they may be aware of who sought to obtain improper advantages or benefits. We are also recommending that the IOC continue to investigate fully all information about potentially improper conduct by members of the IOC, but under the authority of a new Ethics Commission composed of a majority of independent members who have no relationship with the IOC, as more fully described below. If new information about improper conduct is uncovered, the new Ethics Commission should make further recommendations.

a) Facts Arising from Salt Lake City

The Commission recommends that the following members be excluded from the IOC on the basis that their actions have brought the IOC into disrepute under the standards described in this report and its attached annexes:

- H.E. Mr. Augustín C. ARROYO
- General Zein El Abdin Ahmed Abdel GADIR
- H.E. Mr. Jean-Claude GANGA
- H.E. Mr. Lamine KEITA
- Mr. Charles Nderitu MUKORA
- Mr. Sergio SANTANDER FANTINI

The Commission recommends that the IOC conduct further factual investigation of Messrs Un Yong Kim, Louis Guirandou N'Diaye and Vitaly Smirnov, as described in more detail in this report and its attached annexes. The Commission further recommends that Mr. Anton Geesink not be expelled from the IOC for reasons described in the report and its attached annexes.

b) Further Inquiry By the IOC

As a matter of prudence, common sense and in the interests of the IOC and Olympic Movement, it is reasonable to conclude that the inappropriate activities of certain members of the IOC did not commence with the candidacy of Salt Lake City.

While the specific mandate of the Commission was to commence with the facts that arise from the Salt Lake City experience, the Commission recommends that the IOC Executive Board authorize the IOC President to communicate with the leaders of the candidate cities for the Games of 1996, 1998, 2000, 2004 and 2006 to request, formally,

that they advise the IOC of any conduct on the part of any IOC members that might affect the reputation of the IOC or cast doubt upon the objectivity of the selection process for such Games. A suggested draft letter for consideration is attached.

In pursuing this line of inquiry, the Commission notes that requests for this type of information have already been made. A formal debriefing process has already occurred with candidate cities in respect thereof (other than those for 2006), including the possibility of inappropriate conduct by IOC members. An informal process was also conducted under the responsibility of Marc Hodler, who was fixed with the responsibility for developing and enforcing the IOC rules and guidelines for candidate cities. No adequate evidence of inappropriate conduct upon which we could act was provided by any candidate city in response to the IOC inquiries. In light of our investigation and recent public disclosure about bids for other Olympic Games, however, it is felt that a further opportunity should be afforded to such candidate cities to come forward at this time with specific facts. A recent example can also be found in a case regarding the Sydney Bid committee in Australia, where a former Minister made certain allegations of improper behaviour by members of the IOC. However, when requested to provide specific information, the IOC received a written response similar to those received in the past, with allegations which were lacking in adequate details. Within the past few days, more specific information about alleged misconduct by named IOC members has been publicly disclosed in connection with the Sydney bid. This disclosure highlights the reasons for seeking additional facts from past candidate cities.

The IOC is determined to demonstrate that, whenever specific allegations are made, it is prepared to act. There is no place in the IOC for members who are not prepared to adhere to the highest standards of ethical conduct, particularly with respect to the selection of host cities for the Olympic Games.

c) Ethics Commission

The IOC President mandated our Commission to deliver its report to the Executive Board by January 24, 1999. This mandate is fulfilled.

It is clear, however, that the facts are complicated and that new facts are continuing to come to light. In the cases of three IOC members - Dr. Kim, Mr. Smirnov and Mr. Guirandou N'Diaye - the Commission concluded that further investigation should be conducted in order to render a fair decision. Because this Commission's mandate has been fulfilled by the delivery of this report, and because the Commission believes that a more formal and permanent structure should be established for addressing the types of ethical issues we have examined, the Commission recommends that the President establish a permanent Ethics Commission. This Ethics Commission should be composed of a majority of members who have no relationship with the IOC. Its responsibilities should include continued investigations of alleged improper conduct by IOC members, the preparation of a formal Code of Ethics for bids for the Olympic Games, and recommendations to the Executive Board regarding its investigations and proposals. One of the first tasks of this new Ethics Commission should be to complete the investigations of Messrs. Kim, Smirnov and Guirandou N'Diaye and to make appropriate recommendations. Once this Ethics Commission is operational, we recommend that our Commission be dissolved. Our Commission, of course, will insure that all information obtained by us will be expeditiously provided to the new Ethics Commission.

d) Communications Follow-up

The Commission recommends that all material in its report be made available to the public and the media.

It also recommends that it be made clear that the decisions of the Commission and of the Executive Board have been made on the basis of the facts available as of the date of the decision. If other facts come to light in the future, further decisions will be made. These present decisions represent, therefore, only the first chapter in the actions to be taken by the IOC.

e) Considerations for Extraordinary IOC Session

In order that these unattractive considerations do not hang over the IOC for any extended period, to the extent that members who may be requested to submit their resignations do not do so, the Commission was prepared to recommend that the IOC President call an Extraordinary Session of the IOC, to be held in Lausanne, at the earliest possible opportunity, to deal with the subject matter of its mandate. This recommendation has been anticipated by the President, who has convened an

Extraordinary Session of the IOC in March 17-18, 1999. The Commission fully supports such decision.

f) Procedures for Selection of Host Cities for Future Olympic Games

Finally, the Commission recommends that the IOC immediately adopt new procedures for the selection of the host city for the 2006 Winter Olympic Games. The Commission believes that it is important to eliminate visits to candidate cities by IOC members who may decide what city will host the Olympic Games. Similarly, representatives of candidate cities should be prohibited from visiting such IOC members. Other changes to the procedures should also be considered.

[IOC letterhead]

[Draft letter to presidents of bid committees]

Dear Mr. :

I am writing to you in my capacity as President of the International Olympic Committee and in your capacity as President of the bid committee for the candidacy for the Olympic Games.

You are, no doubt, aware of the developments which have occurred in relation to the award of the 2002 Olympic Winter Games to Salt Lake City. The information which the IOC has received indicates that certain members of the IOC have requested and/or accepted benefits from or on behalf of the bid committee for those Games for themselves or their relations or have requested certain benefits for individuals that may not have been related to them or have otherwise abused their position as members of the IOC in the context of the award of the Olympic Games.

These revelations have seriously damaged the reputation of the IOC and have damaged the reputation of the Olympic Games and the Olympic Movement as a whole.

Despite many efforts in the past on the part of the IOC to seek particulars of rumours, suspicions and general, but unspecific, allegations of improper conduct by certain members of the IOC, no information upon which we could act has been forthcoming. These efforts include requests made by the IOC to previous bidding committees for the Olympic Games for any examples of questionable conduct by any member of the IOC. It is only by chance - an apparent leak to the media - that the facts relating to Salt Lake City have come to light. The IOC has acted swiftly and decisively to deal with such facts. The IOC immediately established an *ad hoc* Commission to deal with this situation and charged it with making recommendations to the IOC Executive Board. The *ad hoc* Commission has now delivered its report, and the IOC Executive Board has made its recommendations to the IOC Session. The *ad hoc* Commission has also recommended that a permanent Ethics Commission be established to address such matters in the future.

The IOC is concerned that the Salt Lake City situation may not be unique and wishes to be certain that no other instances of behaviour on the part of its members may have occurred which may cast doubt on the integrity of the process by which the Olympic Games have been, or may be, awarded to a host city. If such conduct has occurred, the IOC wishes to deal with it in the same manner as it will deal with the situation affecting Salt Lake City.

In that context, therefore, I formally request that you advise the IOC, in relation to the award of the Games for which your city was a candidate, of any action, on your part or on the part of IOC members, that might cast any doubt on the integrity of that process, including, without limitation, any of the following circumstances:

1. Any request, direct or indirect, by a member of the IOC, or on his or her behalf, for assistance or intervention of any nature;
2. Any acceptance by a member of the IOC of any of the following material benefits:
 - a. money,
 - b. goods or services having no relation to the candidacy,
 - c. non-emergency medical services,
 - d. gifts which were patently out of the range of customary exchanges;
3. Any acceptance or permitting the acceptance of material benefits for family members or relatives of a member of the IOC, including scholarships, educational expenses, living expenses, medical services or employment;
4. Any acceptance of or direction of benefits to third parties by IOC members or their relatives; and
5. Any acceptance of excessive hospitality, in particular, multiple visits or bringing more than one accompanying person by IOC members or their relatives.

This request includes any such activity organized or implemented by or for the benefit of the bid committee or on its behalf or for its benefit by third parties.

I am certain that you are as interested as is the IOC in ensuring that the reputation of the IOC and the Olympic Movement is not damaged by inappropriate actions by members of the IOC or candidate cities and I am sure I can count on you for a full and candid report with specific details and evidence in response to this request.

The matter is one of considerable urgency and I request that you respond to me by fax, at my private number: +41-21-621-****, **not later than January 31, 1999**. Should you be in doubt as to any aspect of this request, or as to the possible relevance of any matter which may not have been specifically identified above, or are not, for some reason able to meet the deadline, I suggest that you contact the Director General of the IOC, François Carrard.

Yours very truly,

Juan Antonio Samaranch
President

c.c. Me. François Carrard

MR. AGUSTÍN C. ARROYO

Allegations

The SLOC records show that a member of Mr. Agustín C. Arroyo's family received financial support for living expenses in the amount of not less than \$ 19,000 during the time period of 1992 through 1995. Out of these, four large payments were made: \$ 6,991 on December 13, 1994, \$ 3,000 on September 15, 1993, \$ 2,500 twice on May 23, 1995. In addition, Mr. Arroyo made multiple visits to Salt Lake City. SLOC paid over \$ 19,000 in travel expenses on behalf of Mr. Arroyo. By letter dated January 11, 1999, the IOC President invited Mr. Arroyo to respond to the allegations.

Member's Response

Mr. Arroyo sent a letter dated February 13, 1999, which does not contain any explanation, but requested to be heard by the IOC Session.

Conclusions

Mr. Arroyo knowingly accepted payments from SLOC for the personal benefit of himself and a member of his family. By engaging in such conduct, Mr. Arroyo has been unworthy of and jeopardized the interests of the IOC in a manner incompatible with the duties and obligations pertaining to his membership, within the meaning of Rule 20.3.4 and 20.3.5 of the Olympic Charter.

Recommendation

The Commission, after full consideration of the facts and applicable standards under the Olympic Charter and article 65 of the Swiss Civil Code, and upon careful deliberation, recommends that Mr. Arroyo be expelled from the IOC.

GEN. ZEIN EL ABDIN AHMED ABDEL GADIR

Allegations

The SLOC records show that Mr. Gadir received over \$25,000 in payments that appear to be for the personal benefit of Mr. Gadir and his family. Specifically, a member of Mr. Gadir's family received support payments of over \$18,000 from SLOC during the time period from February 1, 1994 through April 7, 1995. Zema Gadir, whom Mr. Gadir identifies as himself, received monthly payments of \$1,000, totaling \$7,000, during the time period from October 24, 1994 through June 5, 1995. By letter dated January 11, 1999, the IOC President invited Mr. Gadir to respond to the allegations.

Member's Response

Mr. Gadir submitted a written response to the allegations by letter dated January 13, 1999. He does not contest the receipt of these payments. He admits that "Zema Gadir" is the abbreviation of his own name. He responds, in essence, that as a result of the political and economic boycott of his country, he was facing economic hardship and needed the money to support his family.

Conclusions

Mr. Gadir knowingly accepted payments from SLOC for the personal benefit of himself and his son. By engaging in such conduct, Mr. Gadir has been unworthy of and jeopardized the interests of the IOC in a manner incompatible with the duties and obligations pertaining to his membership, within the meaning of Rule 20.3.4 and 20.3.5 of the Olympic Charter.

Recommendation

The Commission, after full consideration of the facts and applicable standards under the Olympic Charter and article 65 of the Swiss Civil Code, and upon careful deliberation, recommends that Mr. Gadir be expelled from the IOC.

Mr. JEAN-CLAUDE GANGA

Allegations

The SLOC records show that Mr. Ganga received direct payments totalling \$ 70,010 from SLOC. This amount was deposited to Mr. Ganga's personal account with the First Security Bank in Salt Lake City. Furthermore, Mr. Ganga and members of his family received substantial medical care and medicinal drugs for free. SLOC paid for over \$ 17,000 of such medical expenses. Mr. Ganga also permitted at least one of his children to benefit from substantial travel subsidies and other payments. He also made numerous visits to Salt Lake City. SLOC paid over \$ 115,000 in travel expenses on behalf of Mr. Ganga and members of his family. Mr. Ganga accepted unusually generous gifts and entertainment for an amount totalling over \$ 14,000. These payments and benefits have been made to Mr. Ganga during the time period from December 1991 through 1997.

By letter dated January 11, 1999, the IOC President invited Mr. Ganga to respond to the allegations.

Member's Response

Mr. Ganga submitted a written response to the allegations, by letter dated January 18, 1999.

Mr. Ganga explained that of the payments made by SLOC on his account, he transferred the equivalent of approximately \$ 19,700 to the NOC of Central Africa, an amount of approximately \$ 35,714 to the NOC of Congo, and an amount of approximately \$ 17,860 to the NOC of Niger.

Mr. Ganga further supported that he was insured for the medical care received in Salt Lake City and that he offered to pay the cost related thereto. The Doctor allegedly responded that his assistance was free of charge. Regarding travel costs for his children, Mr. Ganga specified that Mr. Denis Nganga is not a member of his family but an employee of the Olympic Committee of Congo.

Finally, he admitted having received presents of a certain value without being able to provide a list of those presents due to the fact that all of his documentation disappeared during the civil war in Congo. Mr. Ganga also explained that he voted for Salt Lake City because it was by far the best candidature.

Mr. Ganga also appeared before the Commission on January 23, 1999. He declared that his explanations were all contained in the letter sent to the IOC President and he did not have much to add. He reiterated that his frequent trips to Salt Lake City had been for health reasons. He admitted that receiving medical care for free was outside the IOC rules and that he should have informed the IOC about the situation.

Conclusions

Mr. Ganga accepted direct payments from SLOC for the personal benefit of himself and for a very substantial amount. He further accepted for himself and members of his family medical care and medicinal drugs for free. He also accepted unusually generous gifts and largely excessive travel subsidies from SLOC. The Commission notes that several of his trips took place before he began receiving medical treatments. By engaging in such conduct, Mr. Ganga has been unworthy of and jeopardized the interests of the IOC in a manner incompatible with the duties and obligations pertaining to his membership, within the meaning of Rule 20.3.4 and 20.3.5 of the Olympic Charter.

Recommendation

The Commission, after full consideration of the facts and the applicable standards under the Olympic Charter and article 65 of the Swiss Civil Code, and upon careful deliberation, recommends that Mr. Ganga be expelled from the IOC.

MR. ANTON GEESINK

Allegations

The Anton Geesink Foundation received a cheque, dated March 29, 1995, in the amount of \$5,000 and drawn on the personal account of Tom Welch. Welch obtained reimbursement of the amount of the cheque from SLOC. By letter dated January 11, 1999, the IOC President invited Mr. Geesink to respond to the allegations.

Member's Response

Mr. Geesink responded to the allegations by submitting a letter, dated January 17, 1999, in which he stated that Mr. Martin Franken, the secretary/treasurer of the Anton Geesink Foundation, was the right person to answer the questions raised about the \$5,000 cheque. He also said that he was available by telephone to provide any further information that might be needed by the Commission. Mr. Geesink's response contains a letter from Mr. Franken, dated January 17, 1999, in which Mr. Franken addresses the allegations.

Mr. Franken states that the \$5,000 cheque was "in no way meant for Geesink." Rather, it was addressed to the Anton Geesink Foundation for "the NOC*NSF educational programme and more specifically to the Mobile Olympic Academy." The Anton Geesink Foundation is a non-profit organization, and Mr. Geesink is not a Board member. The Foundation supports the Olympic Movement and Geesink's Olympic activities. Several National and International Olympic educational programmes (including the anti-doping programme) have been introduced in the Netherlands according to Geesink's policy plans.

Mr. Franken returned the March 29, 1995 cheque unpaid to the SLOC by letter dated April 9, 1996. SLOC then issued a second \$5,000 cheque, dated May 8, 1996, payable to the Mobile Olympic Academy. This cheque was paid directly into the Anton Geesink Foundation's bank account on October 18, 1996 and was "spent to the MOA project as part of the NOC*NSF educational programme according to the target of the SLOC."

Conclusions

The gift to the Anton Geesink Foundation was technically outside the IOC rules, even though it was made payable to a foundation of which the member is not formally a board member. It was, however, completely unsolicited. The Commission believes that a strongly worded warning should be given to Mr. Geesink. The warning should make clear even this type of indirect payment -

which is made by an individual connected with a bid committee to a private Foundation that supports national Olympics programmes can create an appearance of conflicts. Such appearances of conflicts must be avoided in the future. It would have been preferable for him to have returned the cheque immediately upon receipt.

Recommendations

The Commission recommends that a strongly worded warning be given to Mr. Geesink, as described in the above conclusions.

MR. LOUIS GUIRANDOU N'DIAYE

Allegations

The SLOC records show that on May 1, 1995, SLOC issued a cheque for \$ 5,000 made out to First Security Bank of Utah and noted "NOC program - Guirandou". By letter dated January 11, 1999, the IOC President invited Mr. Guirandou N'Diaye to respond to the allegations.

Member's Response

Mr. Guirandou N'Diaye submitted a written response to the allegations by two letters dated January 15, 1999. Mr. Guirandou N'Diaye firmly contests having had any knowledge of the cheque. He notes that it would have been easy for SLOC to verify the drawee. As the cheque was payable "in cash", Mr. Guirandou N'Diaye points out that any beneficiary would have had to endorse the cheque to receive the money and therefore reveal his identity. The commission has no such document on file. In his second letter of January 15, 1999, Mr. Guirandou N'Diaye explains that, when Mr. Bennie Smith visited Abidjan, Côte d'Ivoire, with a delegation from SLOC to present the city's dossier, he was impressed by the development of Côte d'Ivoire and contacted Mr. Guirandou N'Diaye to explore private business opportunities in Abidjan. He later returned for private business to Abidjan, where he spent one week and made various contacts with members of the National Olympic Committee of Côte d'Ivoire. Mr. Guirandou N'Diaye explains that, under those circumstances, Mr. Smith informed the members of the NOC that he would personally try to help the NOC of Côte d'Ivoire. He promised to give at least \$ 5,000 to the NOC, hoping to be able to make further payments in the future. Mr. Guirandou N'Diaye explains that he received an envelope from Mr. Smith directed to the attention of the NOC. Upon his return to Abidjan, Mr. Guirandou N'Diaye said that he remitted the envelope and its content to the treasurer of the NOC of Côte d'Ivoire. Mr. Guirandou N'Diaye reaffirms that he and other members of the NOC of Côte d'Ivoire were convinced that this donation was made personally by Mr. Smith as a "brother from America".

Conclusions

The Commission is presented with two conflicting versions of the facts, without having any relevant documents to adhere to one or the other. The Commission is not ready, at this stage, to make a final recommendation regarding Mr. Guirandou N'Diaye, and will request him to supply a certified official document showing that the amount of \$ 5,000 was deposited with the NOC of Côte d'Ivoire.

MR. LAMINE KEITA

Allegations

The SLOC records show that one of Mr. Keita's sons received support payments from SLOC totalling in excess of \$97,000 during the time period from August 26, 1993 through February 18, 1997. These payments, according to SLOC records, include subsidies for his son's accommodation and living expenses, books, tuition and airfare while attending Howard University. By letter dated January 11, 1999, the IOC President invited Mr. Keita to respond to the allegations.

Member's Response

Mr. Keita submitted a written response to the allegations by letter dated January 15, 1999. He explained that SLOC's Vice-President helped him to obtain information on the conditions for his son to be admitted to the University of Utah. His son was put in direct contact with SLOC's Vice-President who dealt with the financing without informing Mr. Keita. In his written explanation, Mr. Keita also explained that he heard of the amount of the financing for the first time when he received the IOC President's letter of January 11, 1999. He believed that he should not be responsible for his son's actions, who is 26 years of age. Mr. Keita also appeared personally before the Commission on January 23, 1999. He confirmed the fact that these payments were made on behalf of his son. He learned about the National Olympic Committee ("NOC") grants from Dave Johnson, and received written confirmation of their existence from SLOC. The NOC recommended his son, whom he said was the only person in Mali fulfilling the criteria for receiving such grants. His vote was not in any way influenced by the grant. His son, who was already a United States resident, made his own independent decision to accept the grant. As an IOC member, Mr. Keita has never asked for any financial aid from an Olympic Games Organizing Committee or host city, nor has he ever received any money, aid or gifts over the limits permitted by the IOC.

Conclusion

Mr. Keita knowingly permitted SLOC to make payments for the benefit of his son. By engaging in such conduct, Mr. Keita has been unworthy of and jeopardized the interests of the IOC in a manner incompatible with the duties and obligations pertaining to his membership, within the meaning of Rule 20.3.4 and 20.3.5 of the Olympic Charter.

Recommendation

The Commission, after full consideration of the facts and the applicable standards under the Olympic Charter and article 65 of the Swiss Civil Code, and upon careful deliberation, recommends that Mr. Keita be expelled from the IOC.

DR. UN YONG KIM

Several allegations have been raised against Dr. Un Yong Kim about benefits received by third parties as a result of his intervention and about benefits received by his son. By letters dated January 11, 1999, and January 21, 1999, the IOC President invited Dr. Kim to respond to these allegations. Dr. Kim submitted a written response dated January 13, 1999, and appeared before the Commission on January 23, 1999. He presented a detailed defense. The Commission concludes that further factual investigation is required before a recommendation can be made.

MR. CHARLES NDERITU MUKORA

Allegations

The SLOC records show that Mr. Charles Nderitu Mukora received direct payments totalling \$ 34,650. By letter dated January 11, 1999, the IOC President invited Mr. Mukora to respond to the allegations.

Member's Response

Mr. Mukora submitted a written response to the allegations by letter dated January 12, 1999, referring to a letter he sent on January 8, 1999 to Mr. David Jordan, attorney.

Mr. Mukora explained that the payments were made due to the interest shown by SLOC for sports development in Kenya and for the World youth sporting activities. He further indicated that the SLOC assistance was provided for the benefit of a trust. From the documents attached to Mukora's letter, it appears that the Charles Mukora Sports Foundation was founded by him and that Salomé Wanjifu Mukora and Patrick L. Mukora stood on the board of trustees, together with Kipchoge Keino.

Conclusions

Mr. Mukora accepted payments from SLOC for his personal benefit. By engaging in such conduct, Mr. Mukora has been unworthy of and jeopardized the interests of the IOC in a manner incompatible with the duties and obligations pertaining to his membership, within the meaning of Rule 20.3.4 and 20.3.5 of the Olympic Charter.

Recommendation

The Commission, after full consideration of the facts and the applicable standards under the Olympic Charter and article 65 of the Swiss Civil Code, and upon careful deliberation, recommends that Mr. Mukora be expelled from the IOC.

MR. SERGIO SANTANDER FANTINI

Allegations

The SLOC records show that Mr. Santander received direct payments from SLOC in the amount of \$20,050. By letter dated January 11, 1999, the IOC President invited Mr. Santander to respond to the allegations.

Member's Response

Mr. Santander responded to the allegations by letter dated January 14, 1999. He appeared before the Commission on January 23, 1999. Mr. Santander explained that in 1993 he became a candidate for political office in Chile. By letter dated January 3, 1994, Mr. Thomas Welch, the president of the Salt Lake City Bid Committee, made a pledge on behalf of himself and his wife to contribute to Mr. Santander's political campaign. Mr. Santander's campaign received a wire transfer from SLOC in the amount of \$4,825. Mr. Santander states that he believed the money came directly from Mr. and Mrs. Welch. He also states that if he had known that the financial contribution came from SLOC, he would not have accepted it.

Mr. Santander states he had no knowledge of a second payment referred to in SLOC records in the amount of \$15,225. He could only assume that the amount had arrived, and the election committee used it to pay certain bills by bank transfer, but he had no proof of the existence of this payment.

Conclusions

Mr. Santander knew that the Salt Lake City Bid Committee was making a contribution to his campaign. In the opinion of the Commission such conduct was unworthy of and jeopardized the interests of the IOC in a manner incompatible with the duties and obligations pertaining to his membership, within the meaning of Rule 20.3.4 and 20.3.5 of the Olympic Charter.

Recommendation

The Commission, after full consideration of the facts and the applicable standards under the Olympic Charter and article 65 of the Swiss Civil Code, and upon careful deliberation, recommends that Mr. Santander be expelled from the IOC.

MR. VITALY SMIRNOV

Several allegations have been raised against Mr. Smirnov about benefits received by third parties as a result of his intervention and about excessive gifts. By letter dated January 11, 1999, the IOC President invited Mr. Smirnov to respond to these allegations. Mr. Smirnov submitted written responses, by letters dated January 12, 1999 and January 19, 1999. He also appeared before the Commission on January 23, 1999. Mr. Smirnov presented a detailed defense. The Commission concludes that further investigation is required before a recommendation can be made.