COMPLAINANTS’ REJOINDER

COMPLAINANTS, acting in our own personal capacity, unto the Honorable Arbitration Committee, respectfully submit the following comments by way of Rejoinder to the Respondents’ Reply, as follows:

PREFATORY STATEMENT
1. Involved in this case is the basic and time honored principle that "no person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws." 1

2. The Respondents, in their attempt to gag the Complainants from speaking about the alleged fraudulent spending/corruption of funds provided by the PSC and their unethical conducts, failed to satisfy the requirement of procedural due process that a person must be notified of the charges against him and be given the opportunity to explain and defend himself.

3. In any proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, an opportunity to explain one’s side, or an opportunity to seek a reconsideration of the action or ruling complained of.

THE CASE

4. Respondent JONNE GO, Acting President of the Philippine Canoe-Kayak Federation, filed her Reply dated 11 August 2013 alleging the following:

   a. The termination of the athletes and coaches was made with utmost consideration of fair play and justice and with no other purpose than to uphold the highest sense of discipline which is the core value of the Philippine Canoe-Kayak Federation (hereinafter referred to as “PCKF”);

---

1 Section 1, Article III (Bill of Rights) 1987 Constitution
b. The prize money won by the Complainants belong to the PCKF and it is discretionary on the part of the latter on whether or not to distribute it to them in whole or only a portion thereof as there is no rule or law requiring the PCKF to distribute it to the complainants;

c. It is subject to the discretion of the PCKF management how the budget provided by the Philippine Sports Commission to be spent; and

d. Part of the Respondents’ functions and responsibilities is to network and socialize with persons and entities that are supportive of the sport. If there was any drinking at all, this was made together with the hosts of the parties as a form of socialization.

5. On the other hand, Respondent LEONORA ESCOLLANTE filed her Reply dated 12 August 2013 alleging the following:

a. Complainants are consumed by deception and trickery.

b. The Complainants are hardcore liars.

c. The Complainants are grossly insensitive.

d. The Complainants are disrespectful of authorities.

e. The complainants do not know the boundaries of their functions.

f. The complainants have a distorted mentality of their roles.
g. The Complainants miscalculated themselves as weakling and young that are easily harassed by someone like (her). They miscalculated their mentality by realizing only after 1 year that they were harassed.

6. Such contentions are bereft of merit on grounds hereinafter cited. The issues, being interrelated, shall be discussed jointly.

**DISCUSSION**

I. The Respondents Acted with Grave Abuse of Discretion in Terminating the Services of the Complainants.

7. The Respondents are claiming that the termination of the athletes and coaches was made with utmost consideration of fair play and justice and with no other purpose than to uphold the highest sense of discipline which is the core value of the Philippine Canoe-Kayak Federation (the PCKF).

8. The foregoing averment has no factual and legal basis. The charges against the Complainants are simulated or contrived for they are in fact inadequately documented.

9. Contrary to the claim of the Respondents, the termination of the services of the herein Complainants by the Respondents was carried out in an arbitrary and despotic manner, so patent and gross, without due process and contrary to Paragraph 25 of the PSC-POC-NSA Tripartite Agreement dated 11 January 1993.
10. On 11 July 2013, Respondent Jonne Go, the Acting President of PCKF, issued Memorandum No. 05-2013 directing the Complainants to tender their individual courtesy resignation, the relevant portion of which is quoted below:

"In my capacity as your new PCKF President, it is my desire to reform and restructure this said pool to give it a fresh personality and mandate with a level of confidence that this pool truly manifests and practices admirable values and character.

"While your athletic performance is of no question here. I am issuing this directive for everyone to tender their individual courtesy resignation addressed to undersigned. In your letter, the following should be specifically included:

1. Reason/s why you deserve to continue being part of the National Pool.
2. Do not include your performance and athletic achievement because being in the National Pool speaks of your performance.
3. Reasons should evolve within other parameters within the context of discipline, moral character, aptitude and attitude (as provided for in Section 2-b Article III of the PCKF By-Laws which is also stipulated in Section 13-1 of the Republic Act 6847).
4. State also your past undesirable practices and mistakes that you think have made you not befitting a respectable coach/athlete. And, ways on how you can mend or reform these traits and practices, if given the second chance.

"There are misconducts committed by some of you that keep on coming to our attention and awareness. Your honesty on admitting this may be a good option, than waiting for the management to make its decision on the bases of such misconduct.

"I am expecting your compliance to this directive not later than Friday, 12 July 2013 at 5 pm. Ignoring this directive will compel the management to institute drastic action against all forms of behavior. I am also directing a suspension of training henceforth until 16 July 2013.

"For strict compliance.

(signed)

JONNE GO
Acting President

X X X

11. In her effort to determine who filed the anonymous complaint against her and her co-respondent before the Office of the Ombudsman, Respondent Go
implemented a witch-hunt to harass and undermine those members of the Dragon Boat team who she thinks have differing views. Respondent Go coerced the Complainants to make a confession of guilt in exchange of absolution of their ineptitude, if there is any, a move designed to fish information and at the same time make the complainants turn against each other. Complainants however, did not heed the directive of Respondent Go for obvious reasons.

12. Consequently, on 15 July 2013, Respondent Go issued a letter addressed to Mr. Ricardo M. Garcia, Chairman of the Philippine Sports Commission, informing him of the termination of the services of the Complainants effective 13 July 2013, the relevant portion of which is quoted below:

X X X

"Please be informed that the PCKF Management has decided to reform the National Dragon Boat Pool to give it a fresh personality where every member exhibits admirable values and character befitting a National Athlete/Coach.

"This decision is a result of the attached Memorandum to the pool members where their attention was called due some gross disrespect to authority and deviance to teamwork and good manners. Due to their non-compliance to a directive, and after a thorough evaluation of current occurrences that are deemed damaging the order of maintain a sound training, THE PCKF IS TERMINATING THE SERVICES OF THE FOLLOWING ATHLETES AND COACHES EFFECTIVE 13 JULY 2013.

X X X

13. It should be noted that the Termination Letter of one of the Complainants, Mr. Rolando Isidro, was drafted prior to the issuance of Memorandum No. 05-2013 and the Letter dated 15 July 2013 to the PSC. Thus, it is evident that the termination of the Complainants is a done deal. A copy of Memorandum No. 03-2013 terminating the services of Mr. Rolando Isidro is hereto attached as Annex “___” and made integral part hereof.
14. The act of the respondent in terminating the services of the Complainants for refusing to tender their courtesy resignation and confession of guilt blatantly violates the constitutional guarantee on due process of law. Submitting a courtesy resignation with a confession will only give the Respondents more reason to terminate the complainants.

15. It should be emphasized that to satisfy the requirement of procedural due process, a person must be (1) notified of the charges against him and (2) be given the opportunity to explain and defend himself. In any proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, an opportunity to explain one’s side, or an opportunity to seek a reconsideration of the action or ruling complained of.

16. In the present case, all of the requirements stated above were not complied with. Complainants were not properly notified of the charges against them and were not even given the opportunity to explain and defend themselves. They were only directed to submit courtesy resignation with admission of guilt and their refusal to submit became the basis of their termination. This act cannot, by the standards of a just and civilized society, be considered valid and legal.

17. It is true that Republic Act 6847 gives National Sports Associations the autonomy, the power to determine its organization and membership and the power to select its athletes, coaches and other officials. But this does not mean that the officials of the National Sports Association are given unbridled power to terminate the services of its athletes to the point that it can run counter to the due process guarantee of no less than our Constitution.
18. The Respondents must have thought that they have carte blanche authority to determine the fate of the Sports Association to the detriment of its athletes. They are wrong!

19. Assuming arguendo that the Respondents have the right and authority to terminate the services of the Complainants, this does not mean that the Respondents may abuse this right and authority. The Respondents failed to consider the abuse of rights principle enshrined in Art. 19 of the Civil Code which provides:

“Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.”

20. This provision of law sets standards which must be observed in the exercise of one’s rights as well as in the performance of its duties, to wit: to act with justice; give every one his due; and observe honesty and good faith.2

21. Since the termination of the services of the Complainants was anchored on an illegal ground and carried out in an arbitrary and despotic manner, hence, contrary to law, Respondents failed to exercise in a legitimate manner its right to determine its organization and membership and the power to select its athletes, coaches and other officials, thereby abusing the right of Complainants and thus the Complainants are entitled to damages under Art. 19 in relation to Article 20 of the Civil Code the latter of which provides:

“Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.”

22. In De Guzman v. NLRC,3 this Court quoted the following explanation of Tolentino why it is impermissible to abuse our rights to prejudice others.

2 GF Equity vs. Arturo Valenzona (GR No. 156841, 30 June 2005)
“The exercise of a right ends when the right disappears, and it disappears when it is abused, especially to the prejudice of others. The mask of a right without the spirit of justice which gives it life is repugnant to the modern concept of social law. It cannot be said that a person exercises a right when he unnecessarily prejudices another or offends morals or good customs. Over and above the specific precepts of positive law are the supreme norms of justice which the law develops and which are expressed in three principles: *honeste vivere, alterum non laedere* and *jus suum quique tribuere*; and he who violates them violates the law. For this reason, it is not permissible to abuse our rights to prejudice others.”

23. The disquisition in *Globe Mackay Cable and Radio Corporation v. Court of Appeals* is just as relevant as it is illuminating on the present case. In that case, the Supreme Court declared that even granting that the therein petitioners might have had the right to dismiss the therein respondent from work, the abusive manner in which that right was exercised amounted to a legal wrong for which the petitioners must be held liable.

“One of the more notable innovations of the New Civil Code is the codification of "some basic principles that are to be observed for the rightful relationship between human beings and for the stability of the social order." [REPORT ON THE CODE COMMISSION ON THE PROPOSED CIVIL CODE OF THE PHILIPPINES, p. 39]. The framers of the Code, seeking to remedy the defect of the old Code which merely stated the effects of the law, but failed to draw out its spirit, incorporated certain fundamental precepts which were "designed to indicate certain norms that spring from the fountain of good conscience" and which were also meant to serve as "guides for human conduct [that] should run as golden threads through society, to the end that law may approach its supreme ideal, which is the sway and dominance of justice" (Id.) Foremost among these principles is that pronounced in Article 19 which provides:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

This article, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone his due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be
observed. A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible. But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper.

24. Lastly, the termination of the service of the Complainants is contrary to Paragraph 25 of the PSC-POC-NSA Tripartite Agreement dated 11 January 1993. Thus, it states:

“25. That any athlete or coach in the national pool shall not be subject to summary dismissal, and that 15 days prior to termination of his/her services, he/she shall be properly notified in accordance with due process through an arbitration committee created for that purpose.”

25. It bears stressing, to the point of being repetitive, that the Respondents did not comply with the due process requirement either by law or the abovementioned Tripartite Agreement.

26. The Respondents carried out the summary dismissal of the Complainants in the most despotic and arbitrary manner, ignoring the 15-day notice requirement and procedural due process as provided for by the Tripartite Agreement.

27. Thus, the Respondents acted with grave abuse of discretion and the termination of services of the Complainants is unjust, invalid and contrary to law and applicable rules and regulation.

II. The Respondents has no Legal and Moral Right to Retain the Prizes and Winnings won by the Complainants in Various Competitions.
28. In the Reply dated 11 August 2013 submitted by Respondent Go, she emphasized that when it comes to prize money and winnings, the same belong to PCKF and thus, it is discretionary on the part of the latter whether or not to distribute the prize money/winnings to the participating athletes and coaches.

29. We disagree. It is the Complainants belonging under the umbrella of PCKF that participated in the competitions who has the right to benefit from the prizes and winnings and not the PCKF. Participation in a sports competition can only be performed by natural persons and not by juridical persons such as PCKF. Sports Competition are governed by specific Code of Conduct and IOC Code of Ethics, such are never intended for and can never be performed by National Sports Associations.

30. Section 13 of Republic Act No. 6847, otherwise known as An Act Creating and Establishing the Philippine Sports Commission, Defining its Powers, Functions and Responsibilities, defined a National Sport Association as follows:

“Sec. 13. National Sports Associations. — National sports associations, organized for their respective sports in the Philippines and/or affiliated with their respective international federations which are recognized by the International Olympic Committee, are recognized as such by the Commission.

“The national sports association recognized by the Commission shall be autonomous and shall have exclusive technical control over the promotion and development of the particular sport for which they are organized, subject however to the supervisory and visitorial powers of the Commission, as provided in Section 11, paragraph (j) hereof.

“Each national sports association shall, by its Constitution and by laws, determine its organization and membership. X X X

31. Moreover, Section 13 of the said law enumerates the functions, powers, duties and responsibilities of a National Sport Association. They are as follows:
The Commission recognizes the following functions, powers, duties and responsibilities of the various national sports associations:

(a) To adopt a Constitution and by-laws not inconsistent with the Constitution and by-laws of the Philippine Olympic Committee;

(b) To raise funds by donations, benefits and other means for their purposes;

(c) To purchase, sell, lease or otherwise encumber property, real or personal, for the accomplishment of their respective purposes;

(e) To conduct competitions for the promotion of their respective sports;

(f) To appoint their representative to the Philippine Olympic Committee;

(g) To decide all questions on the amateur status and discipline of the athletes and officials connected with the associations as well as the members thereof and all disputes between members;

(h) To adopt, in coordination with the Philippine Olympic Committee, a training program for the development of the athletes and their preparation for international competitions;

(i) To select the athletes, coaches and other officials for their national teams taking into consideration not only their athletic abilities but also their discipline, moral character, aptitude and attitude;

(j) To keep accurate records of all official marks, scores and results attained by the athletes in the associations in all competitions, as well as all results of sports competitions, recognize and confirm the same and furnish copies thereof to the Philippine Olympic Committee;

(k) To qualify and license referees, umpires and other game officials who shall officiate in competitions in their respective sports; and

(l) To perform such other acts as may be necessary for the proper accomplishment of their purposes.

32. Under the abovementioned law, a National Sport Association is an autonomous organization organized for a particular sport and shall have exclusive technical control over the promotion and development of the particular sport for which they are organized.

33. From the said definition provided by law, it follows that the nature of a National Sport Association should be a non-stock non-profit organization created
primarily for the promotion and development of the particular sport for which they are organized.

34. Contrary to the imagination of the Respondents that PCKF is a business establishment being run by them and the Complainants are their employees, PCKF, being a National Sport Association, is not created for profit. It was created to achieve a specific purpose - the promotion and development of the sport of Canoe, Kayak and, as an addition, Dragon Boat Racing. The contention of the Respondents that the prizes and winnings of the Complainants belong to them, just the PCKF does not hold water. To rule otherwise would mean that National Sports Associations are like employers that hire the services of its athletes and therefore negate the very purpose for its existence.

35. Lastly, Sec. 13 of the abovementioned law exclusively enumerated the functions, powers, duties and responsibilities of a National Sport Association. A close perusal thereof would reveal that profiting from prizes and winnings by its members is not one of the authorized functions and powers of an NSA. To retain prizes and winnings of its members is thus an ultra vires act.


36. In the Complaint dated 12 July 2013 entitled as “Petisyon” filed by herein Complainants, allegations of corruption practices by the Respondents were put into issue. Complainants questioned the PCKF’s expenditure of the budget appropriated by the PSC when they competed in the Taipei International Dragon Boat Festival 2012, the 2012 ICF World Dragon Boat Championship and the DBS Marina Regatta 2013, the Meal Allowance and Vitamins/Food Supplement that were supposed to be given to
them during trainings and other incentives, prizes and winnings that should have been received by the Complainants.

37. Instead of answering the allegations head-on by providing documentary evidence to support their claims, Respondents tried to mislead this Honorable Arbitration Committee by presenting parol evidence to limit terms/contents of the documents presented. Respondent Escollante even went on and presented character evidence and Affidavits of persons who are either not personally knowledgeable of the facts they are testifying to or have nothing to do with the case. Respondent Go even brushed aside the allegations by brazenly stating that the budget appropriated by the PSC is subject to their discretion on how it should be spent.

a. **Taipei International Dragon Boat Festival 2012**

38. Respondents would like the Honorable Arbitration Committee to believe that there was an agreement between the Complainants and Dr. Sim Chi Tat that the latter would pay for the trip of the team subject to reimbursement in case the team wins the competition. We respectfully disagree.

39. It should be recalled that the organizers of the Sprint International Dragon Boat Championship invited the City of Manila to participate in the event. Thus, the City of Manila has the obligation to fund and has the power to determine the delegation who will represent the City for the said competition.

40. The City of Manila then selected the Dragon Boat Team of PCKF to join the competition. When it was disclosed that the City has no available funds that time, the former president of PCKF, Dr. Sim Chi Tat, undertook the responsibility to pay for the trip of the athletes subject to reimbursement by the City of Manila.
41. The justification of the Respondents that the withholding of some of the prize money due to the complainant was made pursuant to an agreement with Dr. Sim Chi Tat - to reimburse him upon winning the race, is not only a form of wagering but would also make Dr. Sim Chi Tat financially interested in the outcome of the competition, an act not only unethical but also anathema to the spirit of sportsmanship.

b. 2012 World Dragon Boat Championship, Milan, Italy

42. Respondent Go extensively discussed why Complainant Assistant Coach Arnold Laureño should not have been included in the delegation who joined the 2012 World Dragon Boat Championship in Milan, Italy and that his inclusion and eventual receipt of the incentives and allowances from the government were only made possible by her intervention.

43. Contrary to the claim of Respondent Go, the documents would show that Complainant Laureño was indeed part of the delegation.

44. Resolution No. 439 ( C ) – 2012 dated 12 July 2012 issued by the PSC clearly states that there are two Coaches allowed to be part of the delegation, one is Respondent Escollante and the other is Complainant Laureño. The PSC even shouldered expenses for Entrance Fee of complainant Laureño and was even included in the list of athletes and coaches who would receive the participation allowance given by the PSC.

45. Respondent Go’s attempt to change the terms of the said Resolution issued by the PSC by introducing a purported e-mail exchange dated 9 July 2012
between her and the PSC and an alleged instruction from Dr. Sim violates the rule of logic.

46. The claim of the respondent that the exclusion of complainant Laureño was instructed by Dr. Sim Chi Tat, former President of PCKF, is contrary to the evidence on record. How could Dr. Sim Chi Tat have instructed the respondent to exclude the complainant from the delegation when in fact it was he who appealed to Hon. Ricardo M. Garcia, Chairman of the PSC, in a letter dated 17 July 2012, to include complainant Laureño to the delegation when the PSC initially omitted Mr. Laureño? (Please see Annex “16”, Respondent Go’s Reply)

47. Resolution No. 439 (C) – 2012 dated 12 July 2012 clearly states that the PSC is funding the trip of 24 athletes and 2 coaches. Respondent cannot alter nor deviate from the terms of the said Resolution because they were the very condition why the PSC approved the funding. To rule otherwise would condone the irregularities committed by the respondents in requesting funds from the PSC and will tolerate the technical malversation committed by the respondents.

48. With regard to the averment of the Respondents that the $480 Participation allowance given by the PSC was received by the Complainants in full, the same is an utter lie!

49. Each of the complainants only received an amount of PhP 9,259.25 (approximately US$220) after they were led to believe by the respondents that their Assistant Coach, Mr. Laureño was not qualified to receive the said allowance. Complainants, for the love of their coach, voluntarily agreed that they will contribute for the participation allowance of Coach Laureño. Hence, Assistant Coach Laureño and the other complainants felt cheated, deceived and swindled by the respondents when they
found out that Assistant Coach Laureño was actually part of the delegation as approved and funded by the PSC.

b. **DBS Marina Regatta 2013**

50. In the Reply submitted by Respondent Go, she ratiocinated the withholding of the meal allowance/food budget of the Complainants when they competed in the Sprint International Dragon Boat Championship by stating that it is the discretion of PCKF management on how the meal allowance/food budget is to be spent depending on the nutritional requirements of the athletes in the most economical way. She then went on to state that it is most appropriate and reasonable that the team eat in a “restaurant”.

51. Not only did the respondent completely destroyed her argument that the meal allowance/food budget must be spent depending on the nutritional requirement of the athletes by later on disclosing that the athletes were fed restaurant food, she also lied.

52. Contrary to the claim of the respondent, the athletes were fed with food bought from hawker stands (Singapore’s version of Carinderia) with prices ranging from 1.25 to 3.00 Singaporean Dollars. Far from supposedly “nutritious restaurant food” being claimed by the respondent.

53. Interestingly, the meal allowance/food budget allocated by the PSC for the Complainants is P195,000.00 in total. However, based on approximate calculation, only the amount of 64,000 (at SGD-PHP conversion rate of 32) was spent for the meals of the Complainants.
54. Moreover, it is erroneous for the Respondent to assert that PCKF has the discretion how the meal allowance/food subsidy of the Complainants should be spent.

55. It has always been the policy of the Philippine Sports Commission to release the meal allowance/food subsidy directly to the athletes subject to the latter’s discretion how it should be spent. Resolution No. 260 (A) and (B) series of 2010 issued by the Philippine Sports Commission would show that allowances and meal subsidies are customarily released directly to the athletes/coaches. Thus, it states that:

“RESOLUTION NO. 260(A)-2010

Adoption of guidelines effective August 2010 for the grant of athletes’ monthly allowance inclusive of meal subsidy amounting to Php5,000 if the athlete opt to take it in cash or Php10,500 if the athlete opt to take the meals at PSC Cafeteria/Mess Hall, for purposes of determining the allowance rate of each athlete. Copy of which attached hereto. APPROVED.

“RESOLUTION NO. 260(B)-2010

Re-inclusion of 175 athletes in addition to the 353 athletes in the PSC payroll following the guidelines of the Commission in granting athletes’ monthly allowances effective August 2010. 20 athletes out of 175 athletes from Fencing and Water Polo shall be subject to verification.

Meal subsidy amounting to Php5,000 is deemed included in their corresponding allowances if the athletes opt not to avail their meals from the PSC-authorized Concessionaire or if they want to avail it in cash.

However, if the athletes opt to avail of their meals at the PSC-authorized Concessionaire, athletes’ allowance will be reduced by Php5,000 representing meal subsidy and the PSC will add another Php5,500, for a total of Php10,500 cost of meal subsidy.

Provided further, that athletes who undergo training abroad will be receiving the same rate of allowance inclusive of meal subsidy.

Athletes can avail their meal subsidy effective September 14, 2010 from the PSC-authorized Concessionaire or at PSC Cafeteria/Mess Hall.

Copy of the number of athletes per NSA, names of athletes as well as their corresponding rate of allowance attached hereto. APPROVED.
56. Assuming without necessarily admitting that the PCKF has the discretion on how the meal allowance/food subsidy, the training requirements such as Vitamins, Whey Protein, Creatine etc., Transportation Allowance must be spent. Respondents however, should be subject to PSC auditing policies as the Complainants are under the impression that the respondents under spent these funds allocated by the PSC to the detriment of the Complainants. The spending of the funds from the PSC by the Respondents should be put under scrutiny and they should be made answerable should this Honorable Arbitration Committee find any form of irregularity and fraudulent transactions by the Respondents.

57. The argument of the Respondents that they could not have under spent/pocketed these funds because the Complainants have eventually won the competitions is *non sequitur*. Their conclusion does not follow from their premise. The Complainants won the competitions because of their perseverance, passion and love for the sport and their country. They tried to win every competition despite the harassment, corruption and financial insecurity brought about by the acts of the Respondents. The success of the aggrieved Complainants should not be attributed to them. Simply stated, they should not be allowed to have their cake and eat it too!

IV. *Respondents Violated the Philippine Olympic Committee Coaches Code of Ethical Conduct.*

58. Respondents resorted to rumor mongering when they tried to justify the alleged physical attack against one of the complainants.

59. This issue is not in any way related to the case. This kind of character assassination being hurled against the complainants should not sway the Honorable Arbitration Committee. Respondents should not go unscathed for resorting to dirty
tactics to justify their violations of the norms and conduct required by the Philippine Olympic Committee Code of Ethics and other applicable laws.

**a. Engaging in a Shopping Spree during the trip in Milan, Italy**

60. Respondent downplayed the allegation of engaging in a shopping spree by boldly stating that she only purchased two bags, one for her and the other for the wife of Atty. Guillermo Iroy, PSC Executive Director.

61. It must be stated that the Complainants personally witnessed that the respondents purchased retail items that are not only limited to bags. In fact, Jenevie B. Manalo one of the complaints who accompanied the respondent when she engaged in the alleged shopping spree can testify that she held at least six (6) shopping bags for the respondent.

62. Moreover, the justification of the respondent that one of the bags she purchased was for the wife of Atty. Guillermo Iroy, PSC Executive Director is not only detestable but would open not only the Respondent but also the said public official to possible liability under Republic Act No. 3019 otherwise known as Anti Graft and Corrupt Practices Act and Republic Act 6713 otherwise known as An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees.

63. Respondent Go is part of the PCKF, an NSA which periodically requests for funds and other financial support from the PSC. It is highly irregular for an official of PSC to solicit or accept favor from a person who transacts with the said government institution as this is prohibited under Paragraph D Section 7 of the RA No. 6713. Thus, it states:

“(d) Solicitation or acceptance of gifts. - Public officials and employees shall not solicit or accept, directly or indirectly, any gift,
gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office."

X X X

64. As to the Respondents, it is simply not tolerable for high ranking sport officials, who solicit funds and donations from private and government institution, to go around shopping for extravagant bags and merchandises, whether for themselves or for other persons, especially when the expenses for the trip of one of the Respondents were paid for by the Complainants. Any form of tolerance by this Honorable Arbitration Committee will add insult to the injury of the Complainants.

b. Engaging in a Drinking Spree

65. Regarding the allegation of the Complainants that the Respondents had repeatedly engaged in drinking sprees during their trip in Italy, the Respondents conveniently downplayed the allegation by arguing that it is part of their functions and responsibilities to network and socialize with persons and entities and thus, engaging in a drinking spree/taking alcoholic beverages is justifiable.

66. We disagree. It bears stressing that the alleged drinking spree by the Respondents also took place at the athletes’ holding area while the races were ongoing. The Letter signed by the UNITY Officials averring that the Respondents did not indulge themselves in drinking liquors has no evidentiary value whatsoever. This is because the athletes’ holding area is in fact restricted to the public. UNITY Officials cannot testify on something they have never seen or witnessed.
67. Moreover, Under the Filipino Coaches’ Code of Ethics promulgated and ratified on 11 October 2006, “a coach should not imbibe alcoholic drinks and refrain from smoking and avoid their use in the presence of their athletes.”

68. Being the Acting President of the PCKF and the Head Coach respectively, of the Philippine Dragon Boat team, Respondents Go and Escollante are high-profile sports people that should posit themselves as role models not only for the athletes but also for others.

69. The Respondents’ emphatic declaration that the drinking was made together with other people supportive of the Dragon Boat team and that part of their functions and responsibilities is to socialize, and hence, drinking alcoholic beverages with them is justifiable, deserve scant consideration. Surely, there are myriad ways in which the Respondents can socialize with other people who are supportive of the sport without taking alcoholic beverage. The Respondents should have been mindful that they should act as role models for the athletes and that they are not only representing the PCKF but also the Country in such prestigious event.

c. Other Unethical Conducts

70. Anent the denial of the Respondents that there was harassment and coercion of the Complainants to sign blank vouchers, the same cannot suffice. Positive allegations of the Complainants that they were harassed and made to sign blank vouchers by the Respondents prevail over the denial made by them.

71. It is a time-honored principle in law that the positive identification of a witness destroys the defense of alibi and denial.5 Thus, it states:

5 People vs. Barde GR No. 183094, 22 September 2010 631 SCRA 187, 211
It is well-entrenched that alibi and denial are inherently weak and have always been viewed with disfavor by the courts due to the facility with which they can be concocted. They warrant the least credibility or none at all and cannot prevail over the positive identification of the appellant by the prosecution witnesses. For alibi to prosper, it is not enough to prove that appellant was somewhere else when the crime was committed; he must also demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law. Denial, like alibi, as an exonerating justification[,] is inherently weak and if uncorroborated regresses to blatant impotence. Like alibi, it also constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.30

72. Also, in a competition sponsored by the PCKF in Boracay last 25 to 27th of April 2012, Respondents committed identity theft and/or falsification by issuing Identification Cards to some of the Complainants bearing someone else’s names.

73. As shown by Annexes “___”, the names of complainants JENEVIE B. MANALO, ALEJANDRA M. OROLA and DATIVO L. ROMARES were unlawfully, illegally and feloniously changed to MERLITA IBAY, JENEVIE MANALO and MANUEL “MANNY” IBAY, respectively, to appear that they are these persons.

74. The Respondents have no qualms in abusing their authority and their moral ascendancy over the complainants and worst, they have put the said complainants at possible legal risk by issuing Identification Cards bearing someone else’s names.

75. The abovementioned acts of the Respondent deserve the utmost condemnation and/or removal of the Respondents from their respective posts by this Honorable Arbitration Committee. Any form of countenance will definitely erode the faith the public reposes in the sporting institutions.
PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Arbitration Committee that a judgment be rendered in favor of the Complainants as follows:

1. Declaring the complainants to be illegally dismissed by Respondents Jonne Go and Leonora Escollante and thus, ordering them to reinstate the Complainants without loss of seniority rights and other privileges.

2. Ordering the Respondents to coordinate with the PSC in order to cause the release of the allowances (and retroactive allowances) due to the complainants starting on July 11, 2013 and other monetary benefits due to the Complainants.

3. Ordering the Respondents jointly and severally to pay the Complainants ONE HUNDRED THOUSAND PESOS (P100,000.00) as moral damages and ONE HUNDRED THOUSAND PESOS (P100,000.00) as exemplary damages, attorney's fees amounting to Ten (10%) percent of the total monetary award and costs of the suit.

4. Ordering the Respondents to present a liquidation of all the funds received from the PSC due to the Complainants.
5. Ordering the removal of the Respondents from their respective posts.

6. Complainant prays for other reliefs just and equitable in the premises.

Makati City for Pasig City, 15 October 2013.

COPY FURNISHED:

**JONNE GO**
840 Benavides Street,
Binondo, Manila

**LEONORA ESCOLLANTE**
840 Benavides Street,
Binondo, Manila

**HON. RICARDO R. GARCIA**
*Chairman*
Philippine Sports Commission
Rizal Memorial Sports Complex
Pablo Ocampo Sr. Street
Malate, Manila