

## **MEDIA RELEASE 5 August 2011**

### **Tribunal finds natural justice not provided to boxing coach in appeal process**

The Sports Tribunal has heard an appeal by boxing coach Rex Jenkins against a decision of the Appeals Committee of Boxing New Zealand (BNZ). The issue related to the appointment of another coach as coach of a boxer to the Youth Olympics. Mr Jenkins accepted, when he filed his appeal, that it was too late to have the appointment changed but sought rulings on the procedure followed, his right to be appointed coach and the eligibility of the coach actually appointed.

BNZ originally nominated Mr Jenkins as coach for the boxer competing at the Games. The New Zealand Olympic Committee (NZOC) decides whether nominated athletes and coaches are appointed. Mr Jenkins had correspondence with the NZOC, attended an NZOC workshop and assumed he had been appointed, although he had not been. Mr Jenkins was not the boxer's personal coach and the NZOC raised with BNZ whether in the particular circumstances it might be better for the boxer to have his personal coach at the Games instead and invited BNZ to reconsider their nomination. The BNZ executive reconsidered their decision and instead nominated the boxer's personal coach who was ultimately appointed as coach. Mr Jenkins unsuccessfully appealed that nomination decision to the BNZ Appeals Committee.

The Tribunal did not accept that the decisions reached by the BNZ Executive were unreasonable, on the evidence and in law. If the NZOC, as appointer, raised relevant issues for consideration, the Tribunal did not see any reason why BNZ was not entitled to reconsider its nomination. While unfortunate that the request to reconsider was made after Mr Jenkins was led to believe that he had been appointed, the Tribunal considered that in the circumstances BNZ had the right to, and was entitled to, change its nomination.

However, the Tribunal decided Mr Jenkins had been denied natural justice in the way the BNZ Appeals Committee heard his appeal. This included that: Mr Jenkins was not notified when or where the appeal hearing was to be heard; the hearing was heard in private; he was not asked for submissions or supporting evidence; he did not know the matters to be considered; and some factual matters were clarified in the hearing that should have been referred to Mr Jenkins first as he may have had some submissions on them.

Under natural justice principles, it is necessary to give an appellant the opportunity to be heard and appropriately present his or her case. The Appeals Committee should have called for submissions from both parties, should normally have given Mr Jenkins the right to appear in support of his case and clarified evidential matters with the knowledge, and in the presence, of both parties. If the Appeals Committee elects to make a decision without a hearing, it must be particularly vigilant that parties are given adequate opportunity to make submissions, be appraised of the facts and to hear any comments adverse to their case.

In view of the findings made, the Tribunal made a declaration that the Appeals Committee denied Mr Jenkins natural justice.