

**ARBITRAL AWARD**

**(BAT 0706/15)**

by the

**BASKETBALL ARBITRAL TRIBUNAL (BAT)**

**Ms. Annett Rombach**

in the arbitration proceedings between

**Mr. Kirk Penney**

**- Claimant 1-**

**Mr. Emilio Durán**

2546 Underhill Road, Ottawa Hills, Ohio 43615, USA

**- Claimant 2-**

both represented by Mr. Gilberto Pérez del Blanco, attorney at law,  
Paseo de la Castellana nº118, 3ºC, 28046 Madrid, Spain

vs.

**Trabzonspor Basketbol Kulübü**

Trabzonspor Mehmet Ali Yılmaz Tesisleri Yani,  
Ozyazici Cad. Havalimani Altı, 61830 Trabzon, Turkey

**- Respondent -**

represented by Mr. Ibrahim Kul, Secretary General

## **AWARD**

Upon providing both parties with an opportunity to be heard, having ascertained her jurisdiction and considered the factual and legal arguments as well as the requests for relief submitted in this case, the Arbitrator decides as follows:

1. **Trabzonspor Basketbol Kulübü is ordered to pay to Mr. Kirk Penney USD 80,000.00 net together with interest of 5% p.a.**
  - from 16 April 2014 on the amount of USD 25,000;
  - from 16 May 2014 on the amount of USD 25,000;
  - from 16 June 2014 on the amount of USD 25,000; and
  - from 10 March 2015 on the amount of USD 5,000.
2. **Trabzonspor Basketbol Kulübü is ordered to pay to Mr. Emilio Durán USD 11,000.00 net together with interest of 5% p.a. from 12 May 2015.**
3. **Trabzonspor Basketbol Kulübü is ordered to pay jointly to Mr. Kirk Penney and Mr. Emilio Durán EUR 4,000.00 as a contribution towards their legal fees and expenses.**
4. **The costs of this arbitration until the present Award, which were determined by the President of the BAT to be in the amount of EUR 4,310.00, shall be borne by Trabzonspor Basketbol Kulübü alone. Accordingly, Trabzonspor Basketbol Kulübü is ordered to pay jointly to Mr. Kirk Penney and Mr. Emilio Durán EUR 4,310.00. The balance of the Advance on Costs, in the amount of EUR 1,180.50, will be reimbursed jointly to Mr. Kirk Penney and Mr. Emilio Durán by the BAT.**
5. **Any arbitration costs associated with a Request for Reasons (see attached Notice) shall be advanced and borne by the requesting party.**
6. **Any other or further-reaching requests for relief are dismissed.**

Geneva, seat of the arbitration, 3 December 2015

Annett Rombach  
(Arbitrator)

### **Notice about Request for Reasons**

in accordance with Article 16.2.1 and 16.2.2 of the BAT Rules:

*“16.2.1 By agreeing to submit their dispute to arbitration under these Rules, the Parties agree that,*

- a) where the value of the dispute does not exceed EUR 30,000, the Arbitrator will issue an award without reasons.*
- b) where the value of the dispute is between EUR 30,001 and EUR 200,000, and a Respondent fails to pay its share of an advance on costs, upon request by a Claimant the Arbitrator may decide to issue an award without reasons and reduce the advance on costs in accordance with Article 9.3.1 above.*

*16.2.2 If Article 16.2.1(a) applies or if the Arbitrator decides to issue an award without reasons in accordance with Article 16.2.1(b), the Arbitrator shall deliver reasons only if a party*

- a) files a request to that effect at any stage from when the Request for Arbitration is filed until no later than ten (10) days after the notification of the award without reasons; and*
- b) pays the respective advance on costs as determined and within the time limit set by the BAT Secretariat.”*

On 29 July 2015 the BAT Secretariat informed the Parties that the amount of the advance on costs to be paid for a reasoned award in this case is EUR 5,500. The time limit for payment thereof shall be set by the BAT Secretariat upon receipt of the Request for Reasons, if any.