

**Richard Morley
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BP 7 Villaroger, 73640 Ste Foy
Tarentaise, Savoie
France**

Olivier Niamkey
Olympic Solidarity
Villa Mon-Repos, 1001 Lausanne
Switzerland

11 January 2010

Solidarity Scholarship – Shyam Dhakal

Dear Mr. Niamkey

I refer to your e-mail addressed to Shyam Dhakal dated 10 December 2009 referring to his letter dated 8 November. We note that you have made absolutely no response to my letter dated 27 November sent to you on his behalf.

As you are aware Shyam has instructed me to represent his formal complaints with the handling of his Solidarity Scholarship by the NOC and yourself. I note your refusal to acknowledge this but the IOC must eventually recognise that athletes have a legal right to representation when raising concerns over the honesty of their officials. You are informed that Shyam has no wish to contact either you or Mr. Shrestha personally again until the issues repeatedly put to your respective organisations since February 2009 have been resolved.

Your e-mail to Shyam dated 8 January 2010, specifically concerning the paperwork involved in the Solidarity scholarship, will be answered in due course. You will also be notified of our response to your recent mail addressed to well wishers that has been drawn to our attention. We will contend that you have provided both entirely false and highly misleading information in answer to their concerns.

Please note the following responses to matters raised in your mail dated 10 December 2009. .

1. Shyam acknowledges your telephoned instructions in May that his scholarship was conditional upon the dismissal of his sponsors and trainers, that he be sole interlocutor on matters concerning it and that he unquestioningly comply with all NOC instructions. He has passed me a recording of that conversation. **We contend your instructions were improper, in contravention of the Solidarity contract issued him in November 2008 and contrary to the principles of the Olympic Charter.**

Threatened by the NOC that otherwise he would be disqualified from Olympic selection, he was forced to follow those instructions. But when serious malpractice involving these officials became apparent it became plainly impossible for him to represent himself. **Your refusal to accept his representation is also considered improper and of questionable legality.**

2. Shyam strongly contests that you have taken 'good note' of his comments as you state. Had you done so he contends that (a) you would have made some reference to the serious allegations of malpractice concerning the handling of his Scholarship detailed in his letter of 8 November (b) you would have answered his specific requests and (c) you would not have made the inaccurate statements discussed below.

3. Shyam did not request an 'invitation' to Vancouver as you suggest. Rather he was asking for discretionary application of the rules on the grounds that he has been manifestly denied the opportunity to train since May 2009 (and thereby qualify for Vancouver) through the maladministration of his scholarship by the NOC, and through your failure to control such malpractice and to properly investigate and fairly handle the situation after it was drawn to your attention in February. Consequently Shyam feels that, far from assisting him, Solidarity and your associates in Nepal have unfairly destroyed his career and caused him severe consequential damage that might have been rectified through the simple application of discretionary rules intended to compensate for such situations.

In simple terms had Solidarity not been involved, Shyam would by now have been safely qualified for Vancouver and this appalling saga would never have happened. **As it is we are left wondering whether Solidarity exists actually to assist athletes or in practice to benefit officials who use the fund largely for their own devices and illegally penalise any athletes or trainers who object to such abuse.**

4. All matters raised in the communications to which you refer are directly related to the Solidarity Scholarship. Your refusal to consider Shyam's complaints on the grounds that you are 'not in a position to interfere' is therefore both disingenuous and an abrogation of your responsibilities. **We contend that, by directly instructing him to abandon the only people capable of providing him vital logistic support, you directly interfered with his training and thereby involved yourself with the consequences of those instructions.**

5. Shyam's statement does not, as you wrongly declare, contradict the data you acquired from the NOC during 32 days of 'investigation'. Disregarding the normal banking delay between despatch and receipt dates and the receipt of other funds 2 weeks after his letter, this information was accurately transmitted to you on 8 November in the following statement;

'I received \$3000 on 20 July and a further \$3000 on 28 September. The circumstances of these delays are detailed in the annex below'.

Consequently your entire 'investigation' appears superficial and your demand for evidence that such funding was *not* received by Shyam is nonsensical.

Shyam therefore contends that you do not need any banking information to 'further your understanding of the situation' but rather a more careful study of the letters already sent to you. **Your comments are clear evidence that you have not taken 'good note' of Shyam's letter of 8th November as you state. Indeed it appears that you have hardly read it.**

To re-iterate Shyam's complaints for the third time;

(a) He should not have been forced to give up his other sponsors, trainers and all logistical support in order to receive a scholarship which by itself is inadequate to cover all the needs of an Alpine ski racer. Solidarity is designed to supplement financial needs and not to entirely replace previous funding.

(b) The funding should have commenced from 1 November 2008 and not 1 March 2009.

(c) The funding should have been paid in full at the commencement of each period rather than in fragments delayed up to six months after the date due.

(d) The NOC attempted to defraud him of funding through deliberate misinformation, the denial of a contract copy, improper threats and personal abuse.

(e) Once he demanded full payment of the Scholarship, the NOC seriously delayed further payments and denied him the vital documents needed for a visa to train in Europe.

All these factors had a crippling effect upon his training and morale. For example he did not receive the funding due on 1 July for his summer training before 27 November by which time the whole period was over and it was too late to actually do anything.

I note that you have released funding for a second period without receiving or even demanding the technical evaluation report for the previous period. This is contrary to Solidarity regulations and we are left wondering how much other funding you have released without proper adherence to the rules.

I also note that you make no comment on the recent documents passed to you concerning the complete ineptitude of the NOC to comprehend the qualification rules or even to determine an athlete's published performance records on the internet. And yet you expect an athlete to personally deal with such incompetence when the rules state that a Solidarity Scholarship holder is entitled to the support and assistance of competent officials.

Plainly the situation cannot now be resolved without recourse to the legal process. As I wrote you on 28 November, it was logistically impossible for Shyam to prepare for Vancouver unless that process began before 15th December. That date passed without your response.

Accordingly both his career and the prospects of any top level Alpine Ski representation for Nepal for many years to come have been irretrievably ruined by the endemic malpractice of senior Nepali officials described to you in various letters throughout the year and through your personal indifference to control this or draw it adequately to the attention of other IOC officials who are in a position to protect athletes and trainers from such abuse. .

Very sadly the matter must now move on.

It is hereby contended that the Nepal Olympic Committee, and Mr. Jeevan Ram Shrestha in particular, has acted at the very least with improper intent, in dereliction of their official duties and in contravention of the Olympic Charter. And that you were directly complicit in such actions through your failure to properly investigate the matter when it was drawn to your attention and so protect the athlete from the consequences of such abuse. Indeed you even instructed him to unquestioningly comply with the abusers when you were fully aware that they had made wholly false and damaging statements to the IOC and the Nepali media in May concerning my official status and the legality of the whole team. **We therefore contend that both you and the NOC are a disgrace to the Olympic movement and should face official investigation under the provisions of the Olympic Ethics Commission.** The full details of such contention and the material to support it may be found in the various correspondences between us since February 2009.

This contention will be publicised without further notice to invite public scrutiny over the malpractice that you and your associates have employed upon an innocent athlete, all those others involved and the sporting profile of a nation. Should you feel this inaccurate you will therefore be entitled to litigation for libel through the civil courts. Such litigation will be vigorously defended with a counterclaim for consequential damages.

Faithfully

Richard Morley, On behalf of Shyam Dhakal.

Subject: NEP/Olympic scholarships for athletes - Vancouver 2010
Date: Thu, 10 Dec 2009 18:49:58 +0100
From: olivier.niamkey@olympic.org
To: samdhakal@hotmail.com
CC: edward.kensington@olympic.org

Dear Shyam,

In reply to the various exchange of correspondence relating to your scholarship:

We have taken good note of all the comments you made and invite you to take note of the following:

- As agreed during the allocation of the scholarship, you are supposed to be the only interlocutor of Olympic Solidarity and your NOC since they do not recognize any other official representing you.
- Regarding your participation in Vancouver, please note that there are no invitations for the Winter Olympic Games therefore, the only way to gain the right to participate in the Vancouver Games is to qualify.
- Please note that any conflict between you and your NOC or your National Federation that is not related to the Olympic Solidarity Scholarship should be addressed between you and your NOC/NF and we are not in a position to interfere.
- Regarding your scholarship, as indicated to you, we have liaised with your NOC and they have confirmed that the following payments were made onto your personal account. Since this information is in contradiction to your statement, we invite you to provide us with evidence that this money has not been transferred to you (letter from your bank or extract of your Bank account for the relevant period). This will allow us to further our understanding of the situation in order to solve the case.

- On 17.07.09 US\$ 3'000.-
- On 23.09.09 US\$ 3'000.-
- On 23.11.09 US\$ 6'000.-

We look forward to receiving the above mentioned documents.

Best regards,

Olivier

Olivier Niamkey

Section Manager - Athletes *Chef de Section - Athlètes*

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