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An Interview with Craig Fenech, Sport Agent and Attorney

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Introduction

Craig Fenech has represented athletes and sports media figures since 1980. In Winter 2001, he went to Toronto to meet Canadian ice skaters Jamie Salé and David Pelletier, took one look at them and said: "I think you can become household names in the US." Little did they know how true those words would prove: a few months later, the reigning world champions in the Pairs Figure Skating event found themselves at the center of scandal at the 2002 Winter Olympics, when the Russian pair of Berezhnaya and Sikharulidze were awarded the gold, despite a flawless display from Jamie and David. An international outcry followed which was resolved four days later when the IOC awarded the Canadians a second gold medal. As a result, Jamie and David, largely unknown before, became two of the most marketable athletes in the world. Here Craig Fenech talks with Professor Jerry Dailey from Kean University about his views on the role of the sport agent, the business side of sport and of the ice-skating scandal.

JD: What are sport agents or sport agencies doing for their clients?

CF: First of all in terms of representation, there are basically two large generic categories in representation. One is the individual sports athlete, in sports such as

golf and tennis, and the other is the team sports agent in sports like baseball, football, and basketball. In the past, the individual sports athlete has been largely represented by the giant agencies like IMG. However, athletes in team sports are really the domain of the individual sport agent.

With regard to what we do, it really depends on who you are, what you can offer to your clients, and what the clients want. A question I always ask the athlete is: how rich do you want to be? If they are willing to take risks, chances are they will make more money than if they don't. We encourage players to be conservative because an athlete only has a five- to 10-year income earning lifespan. During that time he will most likely make more money than most people do in their lifetime, but must be careful not to adjust his lifestyle to the level of income he is generating. He also has to plan on investing so he has money for the future.

Based on the need, an agent can negotiate a player's employment contract, provide tailored tax preparation services, investment advice and money management, and explore and advise on marketing and endorsement opportunities. There are agencies or agents that provide only one or a few of the services, while others serve as a one-stop shop. For example, IMG does all these things. That's why they are so large. ➤



JD: From a sport agent perspective, how has the sport industry changed in the past 10 years?

CF: Well, 23 years ago, when I started to build my sport agency practice, the field was wide open. The concept that a sport figure needed an agent to leverage his "brand status" was not popular. If you look around now you can see that the sport industry is completely flooded with agents and large sports agencies, and I mean a lot of agents. The last time I checked there were at least two or three times as many agents as there were players in the NFL (National Football League), which gives you an idea of where the business is now.

While the proliferation of individual sport agents continued, the sport agencies moved in the opposite direction of consolidation and creation of conglomerate agencies. Many of the smaller agencies were bought up by larger agencies.

The larger agencies were purchasing smaller sports agencies that were just dealing with single sports or specializing in a specific activity. What they were trying to do was put more muscle into the agency in an attempt to control and get involved in many different sports. This effort of building a large agency by acquisition is the reason why only a few major large agencies are left around.

JD: So what is next for the sport agency sector?

CF: I believe that what we are going to see now is that the smaller agent in a big firm will buy themselves out of the big firm and recreate a smaller firm. This trend will be driven by two main reasons. First, agents in

these large agencies are certainly making less money and have less freedom compared to what they had as owners of smaller agencies. Second, by and large successful agents are ego-driven and independent. It is really difficult to see how they going to get used to corporate life and being watched and second-guessed by others who most likely know less about sports-agent business.

JD: You personally represented football players, baseball players, figure skaters, coaches, and sport broadcasters. How would you rate them in order of treacherous to not-so-treacherous?

CF: I would say this. How treacherous the waters are is directly proportional to how much money is in the industry. Football is treacherous in a sense that there are a lot of players in the business. They get a response right away: either they make the team or they don't. Baseball is a little less treacherous because, typically, a baseball player spends three to five years in the minor leagues before they know if they are going to make it. For example, let's look at baseball. You can count on one hand the number of baseball players that do television endorsements. You have to be the best of the best to get the big endorsements. And you better be in a big market. Individual sports athletes have a better chance of getting a bigger endorsement deal because they have no teammates to worry about.

JD: There is this view that a good sport agent is the one that gets fat endorsement contracts for his client. Is this a correct view of a good agent?



CF: Well, I guess the source of this view is the few high-profile athletes that are landing the well-publicized fat endorsement contracts. But we need to keep in mind that typically athletes do not get endorsements unless they are exceptional athletes. Even then, there are many extraordinary athletes who are competing for the same endorsement dollars. This is especially true in team sports. So, it is not enough to be a one-of-a-kind athlete to receive endorsement contracts. You must have something else like a unique appeal and/or a unique context or circumstances to really stand out. Looking at baseball again, very few players do television endorsements which means that there are hundreds of other good and exceptional players who made it to major league baseball but who have no endorsement contract. Their main income is from the employment contract. So, you tell me, who is a better agent: the one that promises and delivers a good employment package, or the one that promises to get a fat endorsement contract that most likely will not materialize. Unfortunately, one of the abuses that occurs in the sport industry is that agents will promise athletes they can get them fat endorsement contracts, having no basis whatsoever for such promises.

JD: Yet you have been successful in getting millions of dollars of endorsements for Jamie Salé and David Pelletier, largely unknown before?

CF: This is a good example of what I just said about endorsement. First, ice skating is an individual sport. Second, just taking a

look at Jamie and David you can see they have a strong appeal. Third, most likely the most significant factor was the special context and circumstances for their gold medal. In other words, winning the gold with all the scandal around it and the manner in which they handled themselves throughout the ordeal increased significantly their endorsement value. Yes, it made them far larger than they would have been if they had just won the gold medal. There is no way that any agent could have foreseen the circumstances, and promised them the endorsement contracts that they subsequently received. On the one hand, a good agent must work with clients to structure an arrangement for a stream of income under the most-likely scenario that the ice skaters will not win gold, and yet he must be able to capitalize very quickly on unique situations like the ice-skating scandal in the Winter Olympics.

JD: If there is one thing you remember best about being put in the middle of that scandal, what is it?

CF: The truth is there is no one thing. Looking back, all I can think of is the intensity of each day. I slept at most three hours a night. I would return to my hotel after 18 hours of meetings to find out I had 60 urgent messages. I estimate that in about a ten-day period I spent 5,000 to 6,000 minutes on the cell phone: this translates to about 10 hours a day spent talking on the phone. It was an extraordinary experience, in fact, the most extraordinary single experience of my career to date and probably ever. It was interdisciplinary in ➤



terms of what you have to bring to the table to try to manage the crisis. That is what we really were doing, crisis management. You have to be a PR person, you have to be a counselor, you have to be marketing strategist, a lawyer, a legal strategist, a political analyst, a media analyst and much more. It was incredibly hectic and you have to make correct decisions using your gut rather than your mind. We were literally running from one press conference to the other. The good news was that I had two extraordinary clients. They were doing literally hundreds of interviews on virtually no sleep, and being asked questions from all kinds from different angles. They never blinked or retracted from their core belief that they deserved the gold medal. Moreover, with all that circus going on around them, they behaved with dignity and always had smiles on their faces. It is these qualities that companies are looking for in athletes to endorse their products.

JD: What exactly did you tell Jamie and David, once it was announced that the Russian pair had won the gold medal. It had to be a very demoralizing moment for them.

CF: Yes, you are right. I had to keep their spirits up. I remember telling them with a lot of confidence that they had won the gold medal, because they had beaten the Russians: they'd faced each other six or seven times before, and this time it was no different. I recall reminding them that, when they chose me to represent them, I explained to them that Americans were going to embrace them as though they were residents of some mid-American city; I

reminded them that we'd turned down most of the marketing opportunities we had prior to the Olympics because we believed that they would win the gold medal; I told them that the USA audience and media fell in love with them and that we must use the media to the greatest extent possible to tell their story. I knew that they had to go out there to appear as winners, and tell the world that they deserved to get the gold medal. Of course, I didn't know at that time that history would be made and they would be awarded a second gold medal. But I knew we must use the media. The only way they had any chance to reverse the decision was if the world was outraged at what had gone down. For the media it was a tremendous story and they couldn't get enough of Jamie and David. I remember that, at one point, David turned to me and asked, "How many NBC interviews must I do?", and I said, "As many as they ask for".

JD: Let us turn to some of your general insights from being at the Olympics. Have you been aware of "ambush marketing" efforts?

CF: To tell you the truth, given the hectic time I have just described, I had very little time to pay attention to any ambush marketing effort. What I can tell you is that there was a very high sensitivity to anything that looked like ambush marketing. I know this from an incident that happened to Jamie and David: during their interview with the French Canadian television station, someone gave them a bottle of water. They went from the French Canadian interview to a large international media press conference and took the bottle of water with them. We were



not aware that there was an official bottle of water for the Olympics. After the interview, it was made clear to us which bottle of water we could use in front of the camera.

JD: In light of this incident and other scandals involving the 2002 Olympics, what was your impression of the Olympics? Are they getting too commercialized, and away from the true spirit of the Olympics?

CF: I guess you can say that. However, it depends on your definition of over commercialism, and on what you envision the Olympics to be. The fact is that the Olympics have been much more than just a sporting event for many years. The Olympics were used in the past as political tools, so why not now as major international marketing events? Playing such a role helps to stage the event and brings it to billions of people. What would be the value of a "pure Olympic spirit" that could be experienced and watched by a relatively small number of people? Perhaps, by being less pure (and more commercialized) but accessible to billions of people, we are really achieving the true objective of the Olympics in that, for three weeks, all the globe is focusing on people who are trying to do their best in

competition. Is that bad or over commercialized?

JD: Thank you, Craig for, agreeing to share with us your views and experience.

CF: It was my pleasure, Jerry.



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Biographies

Craig E. Fenech has been an attorney since 1973 when he received his law degree from the University of California at Berkeley. Upon graduation, Craig served as staff attorney in civil litigation for IBM Corporation and went on to practice both corporate and international trade law for IBM. He has represented athletes and media figures since 1980.

Jerry Dailey is an Assistant Professor at Kean University and in the process of developing there a Sport Management program. He is also, the Vice President of marketing for the Alman Group, LLC and the former vice president of marketing and corporate development for the New Jersey Devils.



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