

USA SWIMMING  
BOARD OF DIRECTORS

ROCHESTER SWIM CLUB ORCAS, INC.,)  
JAMES STEWART, et al., )  
)  
Appellants, )  
)  
V. )  
)  
STEVE KNIGHT, )  
)  
Appellee, )

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DECISION

This is an appeal of a decision of the USA Swimming National Board of Review entered May 10, 2001 and heard by the USA Swimming Board of Directors Tuesday, September 11, 2001. The appeal was reviewed on the basis of the record and written briefs submitted by counsels for all parties, pursuant to Article 401.9 of the USA Swimming RULES AND REGULATIONS. The Record on Appeal was previously given to the counsels for the parties and no objections to or requests for modifications were received.

The USA Swimming Board of Directors found that the National Board of Review failed to properly apply the 120-day rule in Article 203.3 of the USA Swimming RULES AND REGULATIONS. The decision of the National Board of Review effectively waived the 120-day rule in Article 203.3 as to certain athletes. The rule in Article 203.3 is applicable in this case, cannot be waived and must be applied. In this matter the 120-day Rule in 203.3 can be applied to the individual athletes with the same results, which the National Board of Review intended. The athletes may keep their individual times and any individual awards they may have received. However, team points or awards scored or received by the Rochester Swim Club Orcas (Orcas) will be forfeited. All team relay times achieved by Orcas will be void.

DECISION

The National Board of Review decision dated May 10, 2001 is affirmed in part and reversed in part.

The decision of the National Board of Review that Rochester Swim Club, Inc. (RSC) and Orcas are not the same club is affirmed. The decision of the National Board of Review with respect to the 120-day rule in Article 203.3 RULES AND REGULATIONS is reversed. The 120-day rule shall be applied to-the athletes individually; the 120-day period shall commence from the last day each athlete swam representing RSC or any team other than the Orcas. Further, in the event any athlete swam on a relay for the Orcas during that athlete's 120-day period, the team relay time for the relay will be void.

The remainder of the decision of the National Board of Review is affirmed.

The Stay Order dated June 7, 2001 issued by Edwin W. Duncan, Chairman of the National Board of Review is lifted.

Dated: September 11, 2001

USA Swimming Board of Directors

B. Wells O'Brien  
Secretary/General Counsel  
Acting Chairman