

UNITED STATES OLYMPIC COMMITTEE

JACK KELLNER)	
)	
Complainant)	
)	ORDER
v.)	
)	
USA DANCE)	
)	
Respondent.)	August 19, 2015

I. THE PARTIES

1. Jack Kellner (“Kellner”) is a member of USA Dance (“USAD”).

2. USAD has been accepted by the United States Olympic Committee (“USOC”) as a Recognized Sport Organization (“RSO”) member of the USOC pursuant to the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220529) (the “Act”) and Section 8 of the USOC Bylaws. USAD oversees and conducts programs and competitions in the sport of DanceSport. USAD is recognized by and is a member of the International Federation for DanceSport, the World DanceSport Federation.

II. COMMENCEMENT OF PROCEEDING

3. On July 7, 2015, Kellner filed a Complaint with the USOC against USAD pursuant to Section 220527 of the Act and Section 10 of the USOC Bylaws.

III. HEARING PANEL APPOINTMENT

4. In accordance with Section 220527(a)(2) of the Act and Section 10 of the USOC Bylaws, USOC Chief Executive Officer, Scott Blackmun, appointed a Hearing

Panel of three members for the purpose of hearing this matter. The Panel members are:

Bill Marolt, Chair
USOC Board Member,
Glen Schorr, Executive Director of Orienteering USA and
Member of the MSOC,
Katie Holloway, Paralympic Volleyball and
Vice Leadership of the AAC.

5. The Parties were provided with a list of Hearing Panel members. Panel members also made disclosures of conflicts, if any. The Parties were invited to voice any objections to the composition of the Hearing Panel by August 7, 2015.

6. USAD responded that it had “no objection to the composition of the hearing panel.”

7. Kellner did not respond.

8. Accordingly, the Hearing Panel is seated without objection.

IV. COMPLAINT

9. Kellner amended his July 7 Complaint on August 14, 2015. The amendment did not alter the alleged violations set forth in the Complaint, but merely recited an additional fact in support of Kellner’s allegations.

10. The Complaint, as amended, alleges that:

- a) USAD’s failure to provide certain financial information to Kellner is in violation of Section 8.7(m) of the USOC Bylaws, which requires an RSO to be financially and operationally transparent and accountable to its members;
- b) USAD’s failure to conduct an audit for 2014, is in violation of Section 8.7(m) of the USOC Bylaws, which requires an RSO to be financially and operationally transparent and accountable to its members;
- c) USAD’s failure to post on its website audited financial statements for the three most recent years is in violation of Sections 8.7(s) and (m) of the USOC Bylaws, which require an RSO to post such documents on its website and to be financially and operationally transparent and accountable to its members;

- d) USAD's failure to post on its website its IRS Form 990 for the three most recent years is in violation of Sections 8.7(r) and (m) of the USOC Bylaws, which require an RSO to post such documents on its website and to be financially and operationally transparent and accountable to its members; and,
- e) USAD's general failure to respond to its members and its failure to post financial information is in violation of Section 8.7(m) of the USOC Bylaws, which requires an RSO to be financially and operationally transparent and accountable to its members.

V. MEDIATION

11. Section 10.8 of the USOC Bylaws provides that the Hearing Panel may order mediation upon the request of a party.

12. On July 24, 2015, USAD filed a Request for Mediation pursuant to Section 10.8 of the USOC Bylaws. USAD requested that if the Hearing Panel ordered mediation, it also adjourn the proceeding until such time as mediation is completed.

13. After reviewing the issues raised by Kellner in the Complaint, the Hearing Panel believes that an attempt to mediate this matter would be beneficial.

14. Accordingly, the Hearing Panel orders the following:

- a) USAD and Kellner shall enter into mediation.
- b) Mediation shall initially be informal. USAD and Kellner shall first meet without the benefit of a mediator and in good faith attempt to resolve the issues in the Complaint.
- c) If during informal mediation it appears that the services of a mediator would be beneficial, either USAD or Kellner can request that a mediator be appointed. The Hearing Panel will consider such request at that time. If a mediator is appointed, such mediator will be appointed by the USOC CEO in accordance with Section 10.8 of the USOC Bylaws. However, USAD and Kellner may recommend a mediator for appointment. USAD and Kellner shall be responsible for paying the mediator's fees and associated costs on an equal basis.
- d) USAD and Kellner shall have until September 11, 2015, to conclude their mediation efforts. By September 18, 2015, the Parties shall report back to the Hearing Panel on whether or not mediation has been successful.
- e) During the pendency of the mediation, this proceeding is stayed.

VI. MOTION FOR SUMMARY JUDGMENT

15. On August 7, 2015, Kellner filed a Motion for Summary Judgment.

Kellner asserts that his Motion should be granted as “[n]o motion to dismiss nor answer to the merits of the Complaint have been received from USA Dance within the 30 day period following receipt” of the Complaint.

16. On August 7, 2015, USAD filed an Opposition to the Motion.

17. Kellner filed a Reply to USAD’s Opposition on August 9, 2015.

18. The Hearing Panel fully considered the Parties positions and arguments.

19. Section 10.13 of the USOC Bylaws provides that a respondent has thirty days after receipt of a complaint to file a motion to dismiss or to file an answer.

However, a respondent is not required to file either. If no answer is filed, the complaint is deemed denied.

20. Therefore, Kellner’s Motion for Summary Judgment is without merit, as USAD is not required to file an answer.

21. Further, USAD filed a Request for Mediation, which the Hearing Panel has granted. The Hearing Panel also stayed the proceeding until such time as mediation is completed.

22. Accordingly, Kellner’s Motion for Summary Judgment is denied.

VII. MOTION TO DISMISS/ANSWER

23. If USAD and Kellner are not able to reach a mediated settlement of this matter, the Hearing Panel will schedule a date by which USAD may file a Motion to Dismiss or formally answer the Complaint if it so chooses.

VIII. ORDER

24. It is so ordered.

Dated this 19th day of August, 2015.



Bill Marolt, Chair

Glen Schorr, Panel Member

Katie Holloway, Panel Member