

UNITED STATES OLYMPIC & PARALYMPIC COMMITTEE

RANDALL S. CATES,)	
)	
Complainant,)	
)	SCHEDULING ORDER
v.)	
)	
UNITED STATES EQUESTRIAN)	
FEDERATION,)	July 27, 2021
)	
Respondent.)	

I. BACKGROUND

1. On April 22, 2021, Randall S. Cates (“Cates” or "Complainant") filed a Complaint with the United States Olympic & Paralympic Committee (“USOPC”) against the United States Equestrian Federation ("USEF" or "Respondent) (hereinafter referred to as "Parties") pursuant to Section 220527 of the Ted Stevens Olympic and Amateur Sports Act (36 USC §§220501-220529) (the "Act") and Section 10 of the USOPC Bylaws.

2. Section 10 of the USOPC Bylaws outlines the process for individuals to bring forth complaints alleging that a National Governing Body (“NGB”) is not fulfilling its obligations under the Act or the USOPC Bylaws.¹

3. Mr. Cates’ Section 10 Complaint combined allegations of NGB non-compliance with a claim of the denial of participation rights. Additionally, Section 10.2 of the USOPC Bylaws require that Section 10 complaints contain at a minimum the supporting evidence or documentation forming the basis of the complaint (along with other requirements). On April 28, 2021, Complainant was asked via e-mail to correct

¹ Section 10 complaints are commonly referred to as NGB non-compliance complaints, and are separate from participation complaints which are outlined in Section 9 of the USOPC Bylaws.

both of these deficiencies. On April 29, 2021, Complainant refused to re-file the complaints according to the proper procedures and on April 30, 2021, Complainant provided the supporting documentation. Therefore, April 30, 2021, is considered the proper filing date for the Complaint.

4. Complainant is a former member of USEF.

5. USEF is certified as the National Governing Body ("NGB") for the sport of Equestrian pursuant to the Act and Section 8 of the USOPC Bylaws.

II. THE COMPLAINT

6. The underlying issue that gives rise to this Complaint stems from a SafeSport proceeding. In 2015, prior to the opening of the U.S. Center for SafeSport (the "Center"), USEF had jurisdiction over athlete safety issues for the sport of Equestrian.

7. In 2015, a complaint was brought against Cates for allegations of sexual misconduct. USEF provided Cates a hearing on the merits. On June 10, 2015, the hearing panel issued a decision and determined that Cates was "permanently expelled from membership." The decision did not include an option to petition for reinstatement.

8. On May 21, 2020, Cates filed a Petition for Reinstatement with USEF.² After a hearing was held, the panel denied the petition. The panel found that the original decision was "unequivocally" clear that he was "permanently expelled without an option for reinstatement," and therefore, the 2015 determination should be upheld.

9. In the present Section 10 Complaint, Cates argues that the 2020 hearing panel did not have the authority to "modify the 2015 Hearing Panel decision" and could

² The hearing was limited to the reinstatement issue and did not re-litigate any of the original allegations of misconduct.

not “impose penalties that were not set forth in that [2015] decision” when it included the clarification that Cates was not eligible for reinstatement.

10. Cates contends that the 2020 hearing panel’s reliance on a provision in the current Bylaws, which did not exist in 2015, was misplaced.

III. COUNSEL

11. Tamera L. Tucker of the Tucker Law Firm, PLC, represents Randall S. Cates.

12. Steve Smith and Suzanne Crespo of the firm Bryan Cave Leighton Paisner LLP represent USEF.

IV. HEARING PANEL APPOINTMENT

13. In accordance with Section 220527(a)(2) of the Act and Section 10 of the USOPC Bylaws, USOPC Chair, Susanne Lyons, appointed a Hearing Panel of three members for the purpose of hearing this matter. The Hearing Panel members are:

John Naber, Hearing Panel Chair and USOPC Board member;
Jeff Plush, Chief Executive Officer of USA Curling and member of the National Governing Bodies Council;
Elana Meyers-Taylor, Bobsled athlete and Athletes’ Advisory Council representative.

14. The Parties were notified of the composition of the Hearing Panel by letter from Susanne Lyons on May 25, 2021.

15. The Parties were notified by e-mail on June 3, 2021, that the Hearing Panel members had no disclosures to make. Therefore, the Hearing Panel was seated.

V. MOTION TO DISMISS

16. USEF filed a Motion to Dismiss on May 24, 2021, pursuant to Section 10.12 of the USOPC Bylaws.

17. In response to the Motion, the Hearing Panel directed the following briefing schedule, as communicated to the Parties via email.

a. June 11, 2021 (5:00pm MT). Deadline for Complainant to submit a Response to the Motion.

b. June 18, 2021 (5:00pm MT). Deadline for USEF to submit its Reply.

18. On May 28, 2021, Complainant requested an extension (due to medical issues) to file a Response to the Motion until July 11, 2021.³ USEF did not have any objection to the request.

19. On June 3, 2021, Parties were notified via e-mail that the Hearing Panel directed the following revised briefing schedule.

a. June 25, 2021 (5:00pm MT). Deadline for Complainant to submit a Response to the Motion.

b. July 2, 2021 (5:00pm MT). Deadline for USEF to submit its Reply.

20. On June 3, 2021, Complainant noted an inability to meet the revised deadlines as directed by the Hearing Panel and asked for reconsideration.

³ July 11, 2021, was a Sunday, so the request for extension was interpreted as the next business day, July 12, 2021.

21. On June 4, 2021, Parties were notified via e-mail that the Hearing Panel directed the following revised briefing schedule.

- a. July 12, 2021 (5:00pm MT). Deadline for Complainant to submit a Response to the Motion.
- b. July 19, 2021 (5:00pm MT). Deadline for USEF to submit its Reply.

22. On July 12, 2021, Complainant submitted a Response to the Motion to Dismiss.

23. On July 16, 2021, USEF requested an extension (due to scheduling conflicts) to file a Reply until July 27, 2021. Complainant did not have any objection to the request.

24. On July 19, 2021, the Parties were notified that the request for extension was granted and the new date for USEF to file a Reply is July 27, 2021 (5:00pm MT).

25. On July 27, 2021, USEF filed a Reply in Support of its Motion to Dismiss.

VI. SCHEDULING AND PROCEDURAL ORDER FOR ORAL ARGUMENT

26. The Hearing Panel sets the following scheduling and procedural order for the oral argument on the Motion.

- a. The oral argument is set for 3:00pm MT on August 18, 2021.
- b. The oral argument will be held by Zoom conference and will be for a total of one hour. A Zoom invite has been provided to the Parties.
- c. Each Party will have 20 minutes to present their argument to the Hearing Panel.

- d. USEF, the Party bringing forth the Motion, shall present its argument first. Complainant shall then have an opportunity to respond. USEF can then use any of its remaining time to reply.
- e. The Hearing Panel may ask questions of the Parties at any time.

VII. WAIVER OF HEARING DEADLINE

27. Section 220527(b) of the Act provides that a hearing on the merits of a Section 10 Complaint shall be held within 90 days of its filing.

28. Due to the filing of the Motion and request for extensions, the timeframe was encroaching on the 90-day period. The Hearing Panel wants to ensure that the Parties have adequate time to prepare for a hearing on the merits, if the Motion is denied.

Accordingly, the Hearing Panel requested that each Party provide a written waiver of the 90-day deadline by 5:00pm MT on June 14, 2021.

29. On June 7, 2021, Complainant waived the 90-day requirement.

30. On June 8, 2021, USEF waived the 90-day requirement.

VIII. ORDER

31. It is so ordered.

Dated this 27th day of July, 2021.



for
John Naber, Chair

Jeff Plush, Panel member
Elana Meyers-Taylor, Panel member