

**AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL**

Randall S. Cates,

Claimant

v.

AAA Case 01-21-0016-8416

United States Equestrian Federation,

Respondent

Final Award

WE, THE UNDERSIGNED ARBITRATORS, having been designated in accordance with the arbitration agreement entered into by the above-named parties and having been duly sworn, and having heard the proofs and allegations of the Parties, and having previously rendered an Interim Award dated June 30, 2022 hereby AWARD as follows:

Claimant was represented in these proceedings by Tamara Tucker of Tucker Law Firm. Respondent was represented in these proceedings by Steven Smith and Suzanne Crespo of Bryan Cave, LLP. On June 30, 2022, the Panel issued an Interim Award Resolving Merits of Dispute in this matter, fully and finally resolving the Claimant's Appeal, with the issue of whether Respondent is entitled to any reimbursement of costs and expenses to be determined after the parties provided further submissions. All references to defined terms in this Final Award refer to those terms as defined in the Interim Award.

Respondent submitted its evidence, argument and briefing on entitlement to costs and expenses on July 14, 2022; Claimant provided his evidence, argument, and briefing in opposition to the submissions of Respondent on July 28, 2022 and Claimant filed its reply limited to responding to Claimant's opposition on August 4, 2022.

Having fully considered the evidence, arguments and briefing submitted with respect to costs and expenses, the Panel makes the following findings and conclusions with respect to USEF's entitlement to its actual costs and expenses incurred in this proceeding.

There is no provision in the Act or the USOPC Bylaws addressing the entitlement of any party, in an appeal of the USOPC's dismissal of a Section 10 Complaint, to reimbursement of its costs and expenses

from the non-prevailing party. The AAA Rules which govern this proceeding grant the Panel discretion to apportion such amounts among the parties as the Panel deems appropriate. (See AAA Commercial Rule R-47(c).)

At the outset, the Panel notes that Claimant filed two separate AAA arbitration proceedings based on the same set of facts, with identical pleadings in each complaint, except for the specific demand for relief in the final section of each complaint which are based on different legal grounds. The Panel also notes that “reinstatement of his active membership in [USEF],” relief that Claimant requested in this arbitration proceeding, is not an available remedy under Section 10 of the USOPC Bylaws.

After filing these complaints, Claimant sought to have both complaints consolidated into one proceeding, which request was denied by Respondent on the basis that such a consolidation would be procedurally and substantively unworkable. The provisions of Section 10 of the USOPC Bylaws were the applicable rules in this Appeal, but those provisions are not the applicable rules with respect to Claimant's other complaint. In any event, the Claimant, having filed two separate complaints, Respondent exercised its right to separately defend both complaints, including this Appeal, in the manner it deemed most appropriate. Thus, Respondent's determination that the Section 10 Complaint should be heard by a hearing panel appointed by the USOPC was a valid exercise of its rights nor was it obligated to waive this right at Claimant's request. Upon the dismissal of the Section 10 Complaint by the USOPC Hearing Panel, Claimant filed this Appeal which Respondent has defended against, all of which are the procedures properly followed in a Section 10 complaint. Thus, Respondent's exercise of its rights is not a basis to deny Respondent's request for reimbursement.

Under the Act, an appeal pursuant to Section 10 of the USOPC Bylaws is heard by a panel of three arbitrators, unless the parties agree to a lesser number. 36 USC 220529(b)(2)(A). When asked by the AAA Case Manager, Claimant requested a single arbitrator and Respondent requested a panel of three arbitrators. Claimant asserted Respondent's request increased the costs of this arbitration. Respondent replied that when Claimant filed the Appeal, Claimant accepted the possibility of a three-person panel and the potential that the Panel would order him to reimburse Respondent for its portion of their compensation, exercising its discretion under the provisions of AAA Rules 47(c). The Panel again views Respondent's determination to request a panel of three arbitrators as a reasonable exercise of its rights under the provisions of the Act and the USOPC Bylaws.

The Panel finds no merit in Claimant's foregoing reasons for objecting to Respondent's request for reimbursement. Considering the specific circumstances of this arbitration proceeding, which include Claimant's filing of two separate AAA arbitration proceedings based on the same set of facts with

identical pleadings in each complaint (both seeking reinstatement as an USEF member, which is not an available remedy in a Section 10 action); that Respondent's exercise of its rights under the Act and the USOPC Bylaws was reasonable; and that Claimant did not prevail in this Appeal for the reasons set forth in the Interim Award, the Panel exercises its discretion to grant Respondent's request for reimbursement of its arbitrator compensation and AAA administrative fees associated with this Appeal. In doing so, the Panel cautions and explicitly states that its members do not intend to discourage the filing of any future arbitration claims by parties seeking a remedy permitted by Section 10 of the USOPC Bylaws.

The administrative fees and expenses of the American Arbitration Association totaling \$1,595.00 shall be borne by Claimant, and the compensation and expenses of the Arbitrators totaling \$36,775.00 shall be borne by Claimant. Therefore, Claimant shall pay to Respondent the amount of \$18,435.00 representing that portion of said administrative fees and arbitrator compensation incurred by Respondent, within 30 days of the date of this Final Award.

This Final Award, as well as the attached and incorporated Interim Award, is intended to, and does, fully and finally resolve the entirety of each party's submissions in this Appeal, and any relief not expressly granted herein is denied.

IT IS SO ORDERED.

DATED: August 26, 2022



Maidie E. Oliveau, Chair



Nickolas Dibiaso, Arbitrator



Matthew J. Mitten,
Arbitrator

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

Randall S. Cates,

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AAA Case 01-21-0016-8416

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Interim Award Resolving Merits of Dispute

Pursuant to the Commercial Arbitration Rules of the American Arbitration Association (“AAA”), presently in effect, the Ted Stevens Olympic and Amateur Sports Act (codified at 36 USC 220501, *et seq.*) (the “Act”), and the Bylaws of the United States Olympic & Paralympic Committee (“USOPC”), an arbitration hearing was held via Zoom on June 2, 2022 (“Hearing”) before Arbitrators Maidie Oliveau (the Chair), Hon. Nickolas Dibiaso and Matthew J. Mitten (the “Panel”). Having fully considered the pleadings and prehearing briefs submitted in this case and having considered all of the written and oral arguments of counsel, the Panel makes the following findings and conclusions, and issues the following Interim Award.

I. BACKGROUND

A. The Parties

1. Claimant Randall S. Cates (“Claimant” or “Cates”), a horse trainer and former member of the United States Equestrian Federation, was present during the Hearing. Claimant was represented at all times by counsel Tamara L. Tucker, of the Tucker Law Firm, PLC, Charlottesville, Virginia.

2. Respondent United States Equestrian Federation (“USEF” or “Respondent”) is the National Governing Body (“NGB”) for the sport of equestrian in the United States with its headquarters in Lexington, Kentucky, certified as such by the USOPC pursuant to the Act and Section 8 of the USOPC Bylaws. USEF was represented at all times by

Sonja Keating, USEF Senior Vice President and General Counsel, and by Steven B. Smith and Suzanne A. Crespo, of Bryan Cave Leighton Paisner LLP, Colorado Springs, Colorado.

3. Claimant and Respondent are individually referred to herein as a “**Party**” and collectively as the “**Parties**”.

4. USOPC representatives, Sara Pflipsen, USOPC Sr. Counsel and Lucy Denley, USOPC Manager of Dispute Resolution, attended the Hearing (the “**Observers**”).

B. Procedural Background

5. On April 22, 2021, Claimant filed a complaint with the USOPC pursuant to Section 10 of the USOPC Bylaws (the “**Section 10 Complaint**”). The Section 10 Complaint requested that USEF “be stripped of its status as the NGB for equestrian sport and requests reinstatement of [Claimant’s] active membership in [USEF]” because USEF had violated Section 220522(8) of the Act, Section 10 of the USOPC Bylaws, and various provisions of the USEF Bylaws. According to Claimant, a USEF hearing committee, on December 17, 2020, erroneously denied his petition for reinstatement as a USEF member.

6. On May 24, 2021, USEF filed a motion for an order by the USOPC dismissing the Section 10 Complaint.

7. On September 7, 2021, the USOPC’s appointed panel (the “**USOPC Hearing Panel**”), after a hearing, dismissed the Section 10 Complaint for failure to state a claim (the “**USOPC Decision**”).

8. On October 13, 2021, Claimant filed his AAA Commercial Rules Demand for Arbitration (the “**Appeal**”). Claimant’s demand constituted an appeal of the USOPC’s dismissal of Claimant’s Section 10 Complaint and sought the following relief: (1) a determination that USEF is not in compliance with the provisions of the Act, the USOPC Bylaws, and the Rules and Bylaws of the USEF; (2) an order stripping USEF of its status as the NGB for equestrian sport; and (3) an order reinstating Claimant as a member of USEF.

9. On November 12, 2021, USEF filed its answer to Claimant’s Appeal (the “**Answer**”). In its Answer, USEF maintained that (1) the Appeal is without merit and must be denied; and (2) Claimant should be ordered to reimburse USEF for its costs and expenses in connection with this Appeal.

10. On February 28, 2022, the Panel held a preliminary hearing via Zoom with the Parties, counsel, and the Observers.

11. On March 2, 2022, the Panel issued its Report of Preliminary Hearing and Scheduling Order (the “**Order**”). The Order provided that the Hearing in this Appeal would consist of oral argument by counsel for the Parties based upon the written record of the hearing held by the USOPC Hearing Panel. The Order further provided that the Commercial Rules of the AAA, the provisions of Section 10 of the USOPC Bylaws, and the Act would apply to this Arbitration.

12. On April 1, 2022, the Parties provided the Panel with the written record of the hearing held by the USOPC Hearing Panel (the “**Record**”).

13. The Parties submitted their respective pre-hearing briefs.

14. The Hearing before the Panel was held on June 2, 2022. Claimant, by his counsel, presented his arguments and Respondent, by its counsel, presented its opposition arguments. By permission of the Panel, Claimant presented his closing arguments addressing specific new points made by Respondent during its oral presentation.

15. At the end of the Hearing, Claimant and Respondent separately confirmed that (i) they each had a full and fair opportunity to present the case the Party wanted to present as to the substantive issues raised in this Arbitration; and (ii) neither Party had any concerns, objections, or defects to raise to the Panel about anything that occurred or arose at any time during the course of this Arbitration, whether during the pre-hearing procedures or during the oral argument, that the Party believes interfered with the Party’s ability to present, or prevented the Party from fully and fairly presenting, the Party’s case to the Panel, including any defect or problem that arose or was created solely or partially by the fact that the oral argument was conducted by video and/or by the fact that the video platform used was Zoom.

C. Applicable Rules

The applicable provisions of the Act are as follows:

A “person that belongs to or is eligible to belong to a national governing body may seek to compel the national governing body to comply with sections 220522, 220524, and 220525 of this title by filing a written complaint with” the USOPC. 36 U.S.C. 220527(a)(1).

A party “aggrieved” by a USOPC determination on a Section 10 complaint “may obtain review by the arbitration and mediation provider designated by the” USOPC. 36 U.S.C. 220529(a).

Eligibility Requirements: An amateur sports organization, a high-performance management organization, or a Paralympic sports organization is eligible to be certified if it “(8) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition without discrimination on the basis of race, color, religion, sex, age, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manger, administrator or official before declaring the individual ineligible to participate;” 36 USC 220522(8).

The relevant provisions of the USOPC Bylaws are as follows:

Section 8.4.1. Certification Standards. To be certified, an NGB must satisfy these requirements: ... e) iv. maintain and enforce grievance procedures that provide for prompt and equitable resolution of grievances and fair notice and an opportunity for a hearing before declaring an individual ineligible to participate;

Section 10.1.2 Formal Complaint. In any case where the [USOPC] declines to pursue direct compliance action under Section 10.1.1 hereof or where an amateur sports organization or person that belongs to, or is eligible to belong to, an NGB itself otherwise wishes to compel such NGB to comply with the requirements of Section 8 of these Bylaws and Sections 220522-220525 of the Act, such party may file a written complaint with the [USOPC]’s Dispute Resolution team, with a copy to the [USOPC]’s legal division, and serving the complaint on the applicable NGB. The party filing the complaint will file with the [USOPC] proof of service on the NGB.

Section 10.2 The Complaint. The complaint will be in writing and signed by the individual or the chief executive officer of the group or organization making the complaint. The complaint will set forth the factual allegations in numbered paragraphs, each paragraph containing a single factual allegation, and will contain, at a minimum, the following: a) the names and addresses of the parties; b) the jurisdictional basis of the complaint; c) any efforts already made to exhaust available NGB remedies; d) the alleged grounds of noncompliance; e) the supporting evidence or documentation forming the basis of the complaint; and f) the relief sought.

Section 10.17 Hearing . . . The complainant must establish by a preponderance of the evidence that the NGB has failed to meet one or

more of the criteria of Section 8 of these Bylaws and/or Sections 220522-220525 of the Act.

Section 10.18. Decision. If the hearing panel determines that the NGB is not in compliance with the requirements of Section 8 of these Bylaws and/or Sections 220522 –220525 of the Act, it will so notify the [USOPC] Board, the complainant and the NGB. Further, the hearing panel will make a recommendation to the [USOPC] Board either to place the NGB on probation or to decertify the NGB. However, if the hearing panel finds that the NGB’s non-compliance can readily be rectified, then, prior to making a recommendation to the [USOPC] Board, the hearing panel may issue an order directing that the NGB take such action as is appropriate to correct the deficiency, and if such deficiency is corrected, the hearing panel may then make a finding of compliance

Section 10.21. Arbitration. Any party that considers itself aggrieved by a decision of the hearing panel on the merits of the complaint or by a remedy imposed by the [USOPC] Board may, within 30 days after such decision or imposition of remedy, file a demand for arbitration with the arbitral organization designated by the corporation Board.

II. FINDINGS AND CONCLUSIONS

A. Section 10 Requirements

1) Claimant’s standing

We assume for purposes of this Award that Claimant had standing to bring his Section 10 Complaint and also this Appeal. (See 36 U.S.C. 220527(a)(1); 36 U.S.C. 220529(a); Section 10.1.2. of the USOPC Bylaws)

The USOPC Hearing Panel noted that Claimant “is not a member of USEF, nor is [he] eligible to become a member of USEF due to his lifetime ban.” However, the USOPC Hearing Panel did not dismiss Claimant’s complaint on this ground and, instead, considered and ruled on the merits of his Section 10 Complaint. We do likewise on this Appeal.

2) Panel jurisdiction

Pursuant to the provisions of 36 USC 220529(a) and Section 10.21 of the USOPC Bylaws, this Panel has jurisdiction to review Claimant’s Appeal of the USOPC Decision.

3) Claimant’s satisfaction of exhaustion requirement

There is no dispute among the Parties that Claimant has exhausted all available USEF internal

remedies.

4) The alleged grounds of noncompliance

Claimant's claim that USEF failed to follow its own Bylaws is outside the scope of this review of the dismissal of Claimant's Section 10 Complaint. See *Hightower v. US Bowling Congress* (USOC, December 1, 2016). As a consequence, this Panel will consider only Claimant's allegations based upon purported violations of the USOPC Bylaws and the Act.

5) The supporting evidence or documentation forming the basis of the Complaint

The Record was provided to this Panel, and reviewed, as set forth below.

6) Claimant's requested relief

In the Appeal, Claimant's requested relief is:

- (a) a determination that USEF is not in compliance with the provisions of the Act, the USOPC Bylaws, and the Rules and Bylaws of the Federation,
- (b) an order stripping USEF of its status as the NGB for equestrian sport, and
- (c) an order reinstating Claimant in the USEF.

This was supplemented in Claimant's pre-hearing brief with the following requests for relief:

- (d) the imposition of appropriate penalties including, but not limited to, an award vacating the USEF's 2020 and 2021 Decisions; and
- (e) an order remanding to USEF for hearing and decision of Claimant's petition for reinstatement.

B. Evidence Forming the Basis of Claimant's Section 10 Complaint and Appeal

16. Claimant submits that when a USEF hearing committee banned him for life in 2015 (the "2015 Decision"), it did not explicitly prohibit him from seeking future reinstatement as a USEF member. When he was granted a hearing in 2020 by USEF on his petition for reinstatement, Claimant asserts that the USEF hearing committee that heard his petition had the authority to rule only "yes" or "no" on his petition. Claimant submits that the

2020 USEF hearing committee instead effectively increased the penalty imposed by the 2015 Decision by determining that the 2015 Decision rendered him permanently ineligible for USEF membership when it found that “The prior Findings and [2015] Decision unequivocally state that Petitioner is permanently expelled, without an option for reinstatement” (the “2020 Decision”, at p. 3). He argues that the 2020 Decision imposed an additional penalty that was not authorized by the 2015 USEF Bylaws and without any notice or an opportunity to be heard regarding this alleged new sanction. This violated 36 USC 220522(8) (as well as the same requirements established by Section 8 of the USOPC Bylaws) by not providing Claimant with “fair notice and opportunity for a hearing . . . before declaring [him] ineligible to participate”.

17. Claimant then filed an NGB Compliance Complaint under the USEF Bylaws in 2021 (the “**2021 Compliance Complaint**”) contending that the 2020 Decision violated his administrative due process rights. The 2021 Compliance Complaint was dismissed by a USEF hearing panel (the “**2021 Decision**”).

C. USEF’s Submission

In USEF’s Answer to Claimant’s Appeal, USEF requested:

- (a) That the Panel determine Claimant’s Appeal is without merit and be denied;
- (b) An order reimbursing USEF for its costs and expenses in connection with this Appeal.

In USEF’s pre-hearing brief, USEF also submitted that:

- (c) If the Panel determines the USOPC Decision was in error, the matter be sent back to the USOPC Hearing Panel for a hearing.

18. USEF submits that the 2020 Decision did not modify the 2015 Decision, which imposed a “lifetime ban” on Claimant as well as “permanently expelled” him as a member and “permanently suspended” him from participation in its competitions. The 2015 Decision effectively prohibited him from seeking future reinstatement, as it did not expressly provide that Claimant could seek reinstatement. The USEF hearing committee gave Claimant appropriate notice and a full opportunity to be heard during a two-day hearing on April 29-30, 2015 before imposing a lifetime ban on him on June 10, 2015.

19. USEF submits that the USOPC Hearing Panel did not err when it concluded that the “pleadings by both Parties show that a [2015 USEF] hearing was held before permanently expelling Cates from membership and therefore, the [USOPC] Hearing Panel is satisfied that no claim has been made that USEF is out of compliance with its obligations to provide a hearing before declaring an individual ineligible.” (USOPC Decision at para. 42)

III. DECISION

20. Because this matter is an appeal of the USOPC Decision issued by a three-person USOPC Hearing Panel under Section 10 of the USOPC Bylaws and Sections 220527 and 220529 of the Act, this Panel’s arbitral review is limited to the question of whether the USOPC Decision was in error.

21. Claimant submits that the USOPC Hearing Panel erred by finding no difference between the 2020 Decision denying Claimant’s reinstatement petition which found him to be “permanently expelled, without an option for reinstatement” and the 2015 Decision imposing his “lifetime ban” that “permanently expelled” him from USEF membership and “permanently suspended” him from participation in designated competitions. More specifically, he contends that the USOPC Hearing Panel’s conclusions at para. 43 that it was not persuaded that “permanent expulsion and permanent suspension are somehow different than permanent ineligibility” and that “Cates received a lifetime ban in 2015 so the 2020 decision did not add another sanction against Cates” are erroneous.

22. Claimant has not met his burden of proof to show error in the USOPC Decision. USEF did not violate 36 USC 220522(8), as alleged by Claimant, by failing to provide him with fair notice and opportunity for a hearing regarding his May 21, 2020 petition for reinstatement, at which the hearing committee determined that the 2015 Decision had the effect of rendering him permanently ineligible to be reinstated as a USEF member. The 2015 Decision was explicit in stating that it was imposing a “lifetime ban” whereby Claimant “is permanently expelled” from membership with the USEF and is denied all the privileges of membership and he “is permanently suspended from competing or taking part whatsoever in USEF “Licensed Competitions”. (2015 Decision, p. 39) There was no error in the finding of the USOPC Hearing Panel that “Cates received a lifetime ban in 2015 so the 2020 decision did not add another

sanction against Cates.” (USOPC Decision, para. 43) The USOPC Hearing Panel further found that “Cates was provided a full hearing in 2015 and then declared ineligible, for life. Nothing in 2020 changed that.” (USOPC Decision, para. 46) The Panel finds no error in the USOPC Decision finding that a lifetime ban, permanent expulsion, and permanent suspension in the 2015 Decision are not different from permanent ineligibility (i.e., effectively impose the same sanction).

23. Thus, the Panel finds that the USOPC Hearing Panel did not err in granting USEF’s motion to dismiss Claimant’s Section 10 Complaint.

24. Claimant’s remaining requests for relief are dependent on a finding that the USOPC Decision was in error and that USEF was not in compliance with the requirements of the Act, specifically 36 USC 220522(8) and Section 8 of the USOPC Bylaws. Because the Record does not support such findings, the Panel denies all other requests for relief, including: that Claimant be reinstated in the USEF (which in any event is not an available remedy under Section 10 of the USOPC Bylaws); the imposition of appropriate penalties to bring USEF into compliance; and remanding for hearing and decision on the merits of Claimant’s petition for reinstatement.

A. USEF Request for Costs and Expenses

25. The only other request for relief not disposed of by this Panel’s finding is the USEF request that Claimant be ordered to reimburse USEF for its costs and expenses in connection with this Appeal. Claimant has requested that he be given the opportunity to reply to this request. These requests will be considered following further submissions from the Parties pursuant to a schedule to be determined by the Panel.

INTERIM AWARD

In sum, this Interim Award awards and determines the following:

1. The USOPC Decision is upheld and the Appeal is dismissed.
2. The amount of any reimbursement (if any) of costs and expenses in connection with this Appeal shall be determined in further proceedings as follows.
 - (a) Respondent is invited to provide its evidence, argument, and briefing on costs and expenses pursuant to AAA Rules R-47(c), on or before July 14, 2022;
 - (b) Claimant is invited to provide his evidence, argument, and briefing in opposition to the submissions of Respondent on or before July 28, 2022; and
 - (c) In the event Claimant files his evidence, argument, and briefing in opposition to the submissions of Respondent, by the date set forth above, or as extended upon application to the Panel, then Respondent may file a reply limited to responding to such opposition of Claimant on or before August 4, 2022.

No other briefing or submissions on this subject or in this case will be accepted or considered by the Panel unless otherwise requested by the Panel.

Upon receipt of all Party submissions on these matters, the Panel will determine whether a video hearing is necessary and request the parties' availability therefor and/or proceed to render a final award that will include a determination of any entitlement to any costs and expenses. The Parties may request an oral hearing on these topics, but granting that request will be subject to the Panel's sole discretion.

3. The Panel has considered all of the arguments, submissions and requests made by the Parties, whether or not they are specifically referenced in this Interim Award Resolving Merits of Dispute. All claims not expressly granted herein are DENIED.

Dated: June 30, 2022



Maidie E. Oliveau, Chair



Nickolas Dibiaso, Arbitrator



Matthew J. Mitten, Arbitrator