

**BEFORE THE AMERICAN ARBITRATION ASSOCIATION
Commercial Arbitration Tribunal**

ROBERT LEA,)	
)	
Claimant,)	
)	
v.)	AAA Case No. 01-16-0000-8307
)	
USA CYCLING, INC.,)	
)	
Respondent.)	
)	
and)	
)	
JACOB DUEHRING,)	
)	
Affected Athlete.)	

FINAL REASONED AWARD AND DECISION

I, the undersigned arbitrator (the "Arbitrator"), having been designated by the American Arbitration Association ("AAA"), by agreement of the parties, and in accordance with the Ted Stevens Olympic and Amateur Sports Act (the "Ted Stevens Act") and Section 9 of the United States Olympic Committee Bylaws, and having been duly sworn, and having duly heard the proofs and allegations of the parties, and conducted a hearing on March 18, 2016 by telephone, with legal counsel for Claimant Robert Lea (the "Claimant" or "Mr. Lea"), Respondent USA Cycling, Inc. (the "Respondent," "USA Cycling" or "USAC") and the affected athlete Jacob Duehring (the "Affected Athlete" or "Mr. Duehring") in attendance and offering argument and evidence, do hereby AWARD as follows:

1. THE PARTIES AND PROCEDURAL HISTORY

1.1. This dispute between Robert Lea and USA Cycling arises from USA Cycling's interpretation and application of the "minimum eligibility criteria" set forth in its procedures to select athletes for the 2016 Olympic Games.¹

1.2. Claimant is a 27-time national track cycling champion, a two-time Olympian, and the only podium finisher in a UCI World Cup Omnium race from the United States ever. On March 11, 2016, Mr. Lea filed a complaint pursuant to Section 9 of the USOC Bylaws, requesting that he "be added to USA Cycling's Long Team, as described in USA Cycling's Athlete Selection Procedures for the 2016 Olympic Games (Men's Track)."

¹ The case was very well briefed and all parties proceeded very professionally, for which the Arbitrator is thankful.

1.3. Respondent is the National Governing Body (“NGB”) recognized by the U.S. Olympic Committee (“USOC”) for the sport of cycling in the United States. USAC is also recognized as the United States member of the Union Cycliste Internationale (UCI), the international federation for the sport of cycling worldwide that is recognized as such by the International Olympic Committee (the “IOC”).

1.4. Mr. Duehring was determined by the Arbitrator to be an “affected athlete,” as that term is defined in USOC Bylaws Section 9. Mr. Duehring was given notice of these proceedings by the AAA and chose to participate as a party.

1.5. On March 15, 2016, the Arbitrator held a preliminary hearing via telephone with the following persons in attendance: Howard L. Jacobs for Claimant Robert Lea, Stephen A. Hess and Shane Garmin for Respondent USA Cycling, Ryan Stevens for athlete Jacob Duehring, Jen Mora for the AAA, and Gary L. Johansen and Sara Clark for the United States Olympic Committee. The parties were not in agreement with respect to the issue of whether any athletes were “adversely affected” by the arbitration within the meaning of Section 9.8 of the USOC Bylaws. As such, the parties were asked to and did submit their respective positions on the issue to the Arbitrator in writing.²

1.6. On March 16, 2016, the Arbitrator issued an order finding that Mr. Duehring should be deemed an “affected athlete” even though the relief requested by Mr. Lea – that he be named to USA Cycling’s Long Team – “would not necessarily result in the removal of any other athlete – including Mr. Duehring – from the Long Team since that pool can include up to 14 athletes and the addition of Mr. Lea would only increase the number to four.” However, the Arbitrator ruled that Mr. Duehring may be adversely affected by the outcome of the arbitration because

1) there is only one position for a men’s Omnium athlete on the Olympic Team, 2) “[a]ll final nominees for the 2016 Olympic Games Team will come from the previously nominated 2016 Long Team” (Section 1.3 of USA Cycling’s Athlete Selection Procedures), and 3) Mr. Duehring is currently the only member of the Long Team being considered for the men’s Omnium, it follows that he will be selected for the Olympic Team if no other athlete is added to the Long Team. If Mr. Lea prevails in this arbitration and is added to the Long Team, Mr. Duehring is no longer guaranteed a position on the Olympic Team.

1.7. The AAA provided formal notice to Mr. Duehring’s counsel that he was deemed an “affected athlete” and Mr. Stevens subsequently confirmed that Mr. Duehring would participate in the proceedings as a party.

² Although at the time of the Preliminary Hearing on March 15, 2016, Mr. Duehring was not a party to this matter, his counsel, Mr. Duehring’s counsel appeared on the call and gave input with respect to his client’s position. Mr. Stevens also provided a submission to the Arbitrator as to why Mr. Duehring should be considered an “affected athlete,” which largely reflected the points made by Respondent USA Cycling. While the parties’ submissions alone were sufficient to determine the issue, the Arbitrator read and considered all submissions on the matter.

1.8. On March 18, 2016, an evidentiary hearing was held via conference call in this matter in which the following individuals participated: Howard L. Jacobs and Lindsay Brandon for Claimant, Stephen A. Hess and Shane Garmin for Respondent, Ryan Stevens for the Affected Athlete, Sara Clark for the United States Olympic Committee, and Jen Mora for the AAA. The following witnesses were called to testify in the hearing: by Claimant, Robert Lea; by Respondent, Jim Miller; and by the Affected Athlete, Jacob Duehring. All parties were given the opportunity to examine and cross-examine all witnesses who appeared.

1.9. Having duly heard and carefully considered all of the parties' witnesses and arguments of their respective counsel, along with the pre-hearing briefs and the documentary evidence presented during the hearing, the Arbitrator issued an Interim Operative Decision and Award on March 25, 2016, which read as follows:

The sole arbitrator in this case, Cameron Myler ("Arbitrator"), after duly considering the submissions, evidence, the relevant authorities, and the arguments of Robert Lea ("Claimant"), USA Cycling ("Respondent") and Jacob Duehring (the "Affected Athlete"), which were presented in a hearing held via conference call on March 18, 2015, renders the following interim operative decision and award in this expedited proceeding within the time required and requested, and in the form as agreed and requested, by the parties:

- 1.1 The remedy sought by Robert Lea in the arbitration, namely, to "be added to USA Cycling's Long Team, as described in USA Cycling's Athlete Selection Procedures for the 2016 Olympic Games (Men's Track)" is granted. Respondent is directed to add Mr. Lea to USA Cycling's Long Team. This decision does not, and is not intended to, change the status of any of the other three male athletes, including the Affected Athlete, who were previously nominated by USA Cycling to its Long Team.
- 1.2 Claimant has also requested that "USA Cycling be required to reimburse him for the AAA costs incurred by him in this proceeding." Reply Brief at 6. Pursuant to R-47(c) of the Commercial Arbitration Rules, the Arbitrator "may apportion such fees, expenses, and compensation among the parties in such amounts as the arbitrator determines is appropriate" and will address Claimant's request in the final reasoned decision and award.
- 1.3 The fully reasoned decision and award shall be delivered by the Arbitrator hereafter, within the required time.

1.10. The parties agreed that this reasoned award would follow the above-referenced interim operative decision.

2. JURISDICTION

2.1. The Arbitrator has jurisdiction over this dispute pursuant to the Ted Stevens Act (36 U.S.C. §220501, *et seq.*), because this is a controversy involving Claimant's opportunity to participate in national and international competition representing the United States. As the NGB for cycling in the United States, USAC is obligated to "submit to binding arbitration in any controversy involving . . . the opportunity of any amateur athlete . . . to participate in amateur athletic competition upon demand of the [USOC] or any aggrieved amateur athlete . . . conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified and provided for in the [USOC's] constitution and bylaws." 36 U.S.C. §220522(a)(4)(B).

2.2. No party objected to arbitral jurisdiction to hear this dispute and all parties proceeded without objection in these proceedings.

3. STANDARD OF REVIEW AND BURDEN OF PROOF

3.1. It is well accepted that the standard of review for cases arising under Section 9 of the USOC Bylaws is *de novo*. Section 9 proceedings are not appeals of NGB decisions and there is no requirement for an arbitrator in these proceedings to give deference to any prior decision and in fact it would be incorrect to do so. *Komanski v. USA Cycling*, AAA 01 15 0004 9907 (November 15, 2015); *see also Hyatt v. USA Judo*, AAA 01 14 0000 7635 (Jun. 27, 2014); *Craig v. USA Taekwondo, Inc.*, AAA Case No. 77 190E 00144 11 (August 21, 2011). In the context of selections cases, that review is not one that substitutes the arbitrator's assessment of performance for that of the NGB experts who are involved in the decision making. Rather, it is a *de novo* review, with no deference, of the application of the published selection procedures to the facts of the individual case." *Komanski v. USA Cycling*, at 5.

3.2. The burden of proof rests with the athlete to demonstrate by a preponderance of the evidence that the NGB failed to appropriately apply its rules to the facts at issue. *Komanski v. USA Cycling*, at 5; *see also Hyatt v. USA Judo* at 10; *Casey Tibbs v. United States Paralympics*, AAA 71 190 E 00406 12 JENF (August 28, 2012) at 14. "Section 9 jurisprudence requires [Claimant] to prove [USA Cycling] breached its approved and published Athlete Selection Procedures for the [2016 Olympic Games], applied them inconsistently to athletes similarly situated, acted in bad faith towards or with bias against him, and/or violated applicable federal or state laws (*e.g.*, Ted Stevens Olympic and Amateur Sports Act)." *Casey Tibbs* at 14. *See also Craig*, at 5 ("Because this case involved an athlete selection issue, the burden of proof rests with the athlete to demonstrate that the NGB failed to appropriately apply its rules to the facts at issue.").

4. APPLICABLE RULES

4.1. As part of its status as the NGB for cycling, USA Cycling has the exclusive authority within the United States to sanction events that are involved in international competitions and to nominate athletes to the USOC for international games such as the Olympic Games. *See Ted Stevens Act*, 36 U.S.C.A. § 220523(a)(7) ("a national governing body

may . . . designate individuals and teams to represent the United States in international amateur athletic competition”); *see also* USOC Bylaws, § 8.7(g).

4.2. Respondent USA Cycling acknowledges that while it has the authority to select athletes to represent the country in protected competitions, its authority does not come with unbridled discretion. Rather, one function of the Ted Stevens Act is to inject as much objectivity and accountability into the selection process as is consistent with the promotion of Olympic and international medal-winning capability. As a consequence, USA Cycling is required as part of its delegation of authority from Congress, to

establish a written procedure, approved by a Designated Committee . . . of the NGB . . . and thereafter approved by the corporation [the USOC], to fairly select athletes and team officials for the Olympic, Paralympic or Pan American Games teams, and, upon approval, timely disseminate such procedure to the athletes and team officials.

USOC Bylaws, § 8.7(g) [USA Cycling Exh. B].

4.3. USA Cycling promulgated eight discrete Athlete Selection Procedures that govern selection to all the cycling disciplines that are contested in the Olympic Games. Mr. Lea competes in the track cycling event called the Omnium, so the team selection procedures at issue in this case are the “USA Cycling/USAC Athlete Selection Procedures 2016 Olympic Games Men’s Track” (the “Athlete Selection Procedures”).

4.4. Section 1.1 of the Athlete Selection Procedures set forth the “minimum eligibility requirements for an athlete to be considered for nomination to the Team.” Those requirements include the following:

1.1.1. Nationality /Passport requirements:

Athlete must be a national of the United States at the time of nomination and hold a valid U.S. passport that will not expire for six months after the conclusion of the Games.

1.1.2. Minimum International Olympic Committee (IOC) . . . standards for participation:

Any competitor in the Olympic . . . Games must be a national of the country of the National Olympic Committee . . . which is entering the competitor . . .

1.1.3. Minimum International Federation (IF) . . . standard for participation (if any):

1.1.3.1. All athletes must hold an International License issued by their National Federation.

1.1.3.2. Nominees must be at least 18 years old or reach this age in the year of the 2016 Olympic Games.

1.1.3.3. Athletes will only be allowed to use equipment that meets UCI equipment standards during any 2016 Olympic Games competitions. . .

1.1.4. Other requirements (if any):

- 1.1.4.1. Only those athletes who qualify for the 2016 Olympic Games via these procedures can be nominated by USA Cycling (“USAC”) to represent the United States in the cycling events at the 2016 Olympic Games.
- 1.1.4.2. All nominees must have a valid USAC International Racing License and meet all eligibility requirements of USA Cycling, the Union Cycliste Internationale (UCI) and the United States Olympic Committee at the time of nomination.
- 1.1.4.3. All athletes must be in good standing with USAC, USOC, UCI, and the United States Anti-Doping Agency (USADA) at the time of nomination.
- 1.1.4.4. In all cases, athletes must use only equipment that meets UCI equipment standards in the process of qualifying for the 2016 Olympic Games competitions. . . .

4.5. Section 1.3 of the Athlete Selection Procedures “[p]rovide[s] a comprehensive, step-by-step description of the method that explains how athletes will go through the selection process to become [Olympic] Team nominees (including maximum Team size).” The process for selecting the Olympic Team for men’s endurance and sprint track takes place by first selecting a pool of athletes for a “Long Team,” and then selecting the 2016 Olympic team from that Long Team. Specifically, Section 1.3 provides the following timeline for selection of the Olympic Team for men’s endurance and sprint track:

Men’s Endurance and Sprint Track Team Criteria

Long Team Qual. Period	July 1, 2015- December 15, 2015
Long Team Size	Maximum of fourteen (14) athletes
Long Team Nominated	December 18, 2015
Final Team Qual. Period	January 1, 2016 –March 7, 2016
Final Team Size	Maximum of up to eight (8) athletes
Final Team Nominated	March 18, 2016

4.6. The criteria under Section 1.3 by which athletes who compete in the Omnium are selected for the Long Team include the following:

Men’s Endurance and Sprint Track Long Team Criteria

Maximum Long Team Size: Up to fourteen (14) athletes

- 1. Any U.S. eligible athlete placing in the top-three (3) of the 2015 UCI Elite Men’s Omnium Pan Am Continental Championships, Santiago, Chile, September 1-6, 2015 may be nominated to the ~~Long~~2016 Long Team.
- 6. Any U.S. eligible athlete placing in the top-three (3) of the 2015/16 UCI Elite Men’s World Cup Omnium between the dates of September 1, 2015 and December 15, 2015, may be nominated to the ~~Long~~2016 Long Team.
- 11. If Positions remain after considering the preceding criterion, then athletes may be nominated to the ~~Long~~2016 Long Team by the USA Cycling Selection Committee, following USA Cycling’s Principles of Athlete Selection (Section 2) and subject to review and approval of the USA Cycling Selection Committee (Section 11).

4.7. USA Cycling has one starting position for the men's Omnium at the 2016 Olympic Games, and that athlete is selected according to the following criteria:

Men's Omnium Final Team Criteria
Maximum number of starters: one (1)

1. All final nominees for the 2016 Olympic Games Team will come from the previously nominated ~~Long~~2016 Long Team.
2. Any U.S. eligible athlete placing in the top-three (3) of the 2016 UCI Elite Men's Omnium World Championships, London, England, ~~May 1-6~~March 2-6, 2016 will be nominated to the 2016 Olympic Games Team.
3. If Positions remain after considering the ~~preceding~~preceding criterion, then athletes may be nominated to the 2016 Olympic Games Team by the USA Cycling Selection Committee, following USA Cycling's Principles of Athlete Selection (Section 2) and subject to review and approval of the USA Cycling Selection Committee (Section 11).

5. THE PARTIES' ARGUMENTS

5.1. Mr. Lea's Section 9 complaint is based on the alleged failure of USA Cycling to appropriately apply its Athlete Selection Procedures in selecting athletes to be named to the Long Team, from which the 2016 Olympic Team is selected. Claimant submits that under a proper reading of the Athlete Selection Procedures, Mr. Lea met the "minimum eligibility criteria" – namely having a valid International License issued by USA Cycling, and being in good standing with USAC, USOC, UCI, and USADA – set forth in Section 1.1 and should have been nominated to the Long Team.

5.2. Claimant argues that the only reason he was not nominated to the Long Team was because when USA Cycling nominated athletes to the Long Team, he was serving a 16-month sanction that had been erroneously imposed on him by an AAA panel in connection with his positive test for noroxycodone. That period of ineligibility extended beyond both the date on which USA Cycling would nominate its Olympic Team, as well as the 2016 Olympic Games. Had the AAA Panel made the correct decision (*i.e.*, a 6-month sanction instead of a 16-month sanction), USA Cycling would have known on December 18, 2015 that Mr. Lea would have been eligible for the 2016 Olympic Games. As such, USA Cycling would have had no basis to not nominate him to the Long Team. Claimant also argues that there is no rational basis to require an athlete who is "in good standing" at the time of final nomination to the Olympic Team to also be "in good standing" at the earlier date of selection to the Long Team. Selection criteria must be disregarded if it is established that there is no rational basis for such criteria. *See, e.g., Beckom et al. v. USBSF* (AAA No. 77 190 E 00105 10 JENF), at 8. Additionally, Mr. Lea argues that requiring an athlete to be "in good standing" at the time of selection to the Long Team, even where his doping sanction will have ended prior to the date of the final nomination of the Olympic Team, would constitute an extra consequence, in violation of the World Anti-Doping Code.

5.3. USA Cycling states that it “excluded Mr. Lea from the Long Team on the basis that he was serving a drug-related suspension at the time the Long Team was named . . . [and a]s a consequence of his exclusion from the Long Team, Mr. Lea is not eligible to be nominated to the United States Olympic Team.” USAC argues that the criteria set forth in Section 1.1 of the Athlete Selection Procedures must be read to mean that they apply at the time that athletes are nominated to the Long Team, not at the time that athletes are nominated to the Olympic Team. USAC also contends that it is not enhancing or extending Mr. Lea’s punishment for doping. USA Cycling agrees that it cannot add a term of suspension to Mr. Lea’s suspension or bar him from competing once his eligibility with UCI and USA Cycling is restored simply to punish him. USA Cycling claims, however, that it is not exercising any discretionary function to declare Mr. Lea ineligible – rather, it is merely enforcing the Athlete Selection Procedures as written, and those procedures select USA Cycling’s Olympic Team through a process that was clear and whose timing was clear to all athletes. USAC also contends that Mr. Lea did not meet the requirement of holding a valid license because pursuant to UCI Cycling Regulations Section 1.1.023, Mr. Lea was required to “spontaneously return [his] license in the event of any substantial change to the circumstances existing at the time of the application for a license.”

5.4. Mr. Duehring’s arguments largely parallel those of Respondent USA Cycling. He takes the position that he is the only athlete who is fully qualified and eligible to be named to the 2016 Olympic Team for the Men’s Omnium and is, at present, guaranteed a spot on the 2016 Olympic Team, because there is no other athlete on the Long Team who competes in the Omnium event. Mr. Duehring also argues that Claimant was not named to USA Cycling’s 2016 Long Team, due to his failure to meet the minimum eligibility requirements stated in Athlete Selection Procedures.

6. FINDINGS OF FACT

6.1. Mr. Lea is an accomplished athlete who has had a long and successful career as a track cyclist. He has competed in 20 World Cup races and eight World Championships. On August 8, 2015, he tested positive for noroxycodone (a metabolite of oxycodone), caused by his use of a single Percocet pill the prior evening to help him sleep. Percocet is only banned in competition, and Mr. Lea’s out-of-competition use of Percocet caused his in-competition positive test.³

6.2. Mr. Lea requested an expedited hearing before the AAA with respect to his positive test, and on November 20, 2015, the AAA Panel issued an Operative Interim Preliminary Award that sanctioned Claimant for 16 months, commencing on September 10, 2015, the date on which Mr. Lea accepted a provisional sanction. Given that the sanction would have extended into 2017, it would have rendered Mr. Lea ineligible for the Olympic Games in Rio de Janeiro, which begin on August 5, 2016. The AAA Panel ordered that the only communication that could be made to USA Cycling was that “Mr. Lea is presently serving a

³ The details of Mr. Lea’s positive test are set forth in detail in the decision in United States Anti-Doping Agency v. Robert Lea (AAA Case No. 01-15-0005-6647).

period of ineligibility as the result of an anti-doping proceeding pending before the American Arbitration Association, and thus is unable to compete.”

6.3. The AAA issued a Modified Operative Interim Award on December 15, 2015, which permitted disclosure of its terms by either party after forty-eight hours prior notice to the other party. The Modified Operative Interim Award noted, *inter alia*, 1) “that the applicable standards for establishing a violation under Article 10.2.1 [of the World Anti-Doping Code] have not been established to the Panel’s comfortable satisfaction. Consequently, in accordance with Article 10.2.2 of the WADA Code, the period of ineligibility shall not exceed two (2) years” and 2) “[t]he results of the competition in which [Mr. Lea] participated on August 8, 2015 shall be disqualified; all of [Mr. Lea’s] other competition results until the date he accepted the provisional sanction shall be deemed valid.”

6.4. Three days later, on December 18, 2015, USAC announced the men’s Long Team for track cycling, which included one automatic and two discretionary selections: Matt Baranoski (automatic selection for the Keirin), Danny Robertson (discretionary selection for Keirin), and Jake Duehring (discretionary selection for the Omnium). From those three athletes, one Omnium and one Keirin rider will be named to the Olympic Team. The Long Team was named at a time that Mr. Lea had been sanctioned for a period that extended beyond the 2016 Olympic Games. Nevertheless, USA Cycling knew in December 2015 that he intended to appeal the length of his sanction to CAS and ask that his sanction be shortened so that he could compete at the Olympic Games.

6.5. Mr. Lea filed an expedited appeal to CAS and stated his “desire[] that the matter be resolved on an expedited basis in order to allow him to compete at the March 2, 2016 World Track Cycling Championship.” Claimant’s Ex. 5 at 2. In a decision dated February 25, 2015, the CAS Panel ruled that the 16-month period of ineligibility imposed on Mr. Lea by the AAA panel was reduced to six (6) months, commencing from September 10, 2016. As a result, Mr. Lea’s period of ineligibility ended on March 10, 2016. Claimant filed his Section 9 Complaint on March 11, 2016, which was within several days of being advised of USA Cycling’s final decision that it would not add Mr. Lea to the Long Team despite the fact that Mr. Lea would be eligible to compete in advance of the 2016 Olympic Games, and in advance of the date on which USAC was set to nominate its Olympic Team in the Omnium event.

7. ANALYSIS

7.1. The issue before the Arbitrator is a narrow one: whether the “minimum eligibility requirements” set forth in Section 1.1 of the Athlete Selection Procedures must be met at the time USA Cycling selected athletes to its Long Team in December 2015, or when it makes its final nominations of athletes to the 2016 Olympic Team.

7.2. Regarding the athlete selection process for protected competitions such as the Olympic Games, USAC has “the responsibility to athletes and others to make the rules clear, transparent, and easy to apply without confusion. . . . Athletes are entitled to know what standard they have to meet and precisely how such selections will be made.” *McConneloug v.*

USA Cycling, AAA 30 190 00750 04 (July 20, 2004) at 7. “The whole purpose for the development of criteria for qualification for [protected competitions] is for the contenders to know how they will be selected and against what criteria they will be judged.” *Klug v. US Ski and Snowboard Association*, AAA 30 190 00056 06 (January 27, 2006) at p. 2. Arbitrators in Section 9 disputes are therefore obligated to apply the selection criteria as written. *Craig* at 6.

7.3. Section 1.1 of the Athlete Selection Procedures set forth the “minimum eligibility requirements for an athlete to be considered for nomination to the Team.” Section 1.1.4.2 of the Athlete Selection Procedures specifies that “All nominees must have a valid USAC International Racing License and meet all eligibility requirements of USA Cycling, the Union Cycliste Internationale (UCI) and the United States Olympic Committee (USOC) at the time of nomination” and Section 1.1.4.3 requires that “[a]ll athletes must be in good standing with USAC, USOC, UCI, and the United States Anti-Doping Agency (USADA) at the time of nomination.”

7.4. Although USA Cycling contends that the word “nomination” in those sections should be read to mean nomination to the Long Team, which occurred on December 18, 2015, neither of those sections nor any other section of the Athlete Selection Procedures defines the word. The first time that “nomination” appears anywhere in the Athlete Selection Procedures is in the heading of Section 1.1: “Provide the minimum eligibility requirements for an athlete to be considered for nomination to the Team.” Given that the criteria in this section include nationality and passport requirements, as well as minimum standards established by the International Olympic Committee and the relevant International Federation, the word “Team” must be interpreted to mean “Olympic Team” and “nomination” must be interpreted to mean nomination to that Olympic Team. As such, the “minimum eligibility criteria” in Section 1.1, which include holding a valid USAC International Racing License and being “in good standing” with USAC, USOC, UCI, and USADA, must be met at the time an athlete is nominated to the Olympic Team, not at the time USA Cycling selected its Long Team.

7.5. To the extent there is any ambiguity in the meaning of terms in the Athlete Selection Procedures, those ambiguities must be construed against their drafter, USA Cycling. The doctrine of *contra proferentem* - that ambiguities in a contract or agreement must be construed against the drafter - is well settled. *See, e.g., Bank of New York Mellon v. Commerzbank Capital Funding Trust II*, 65 A.3d 539 (Del. 2013); Restatement (Second) of Contracts § 206 (1981). Therefore, the ambiguity in the meaning of the term “nomination” must be read against USA Cycling; or stated otherwise, the ambiguities require that the ambiguous term “nomination” be read as “final nomination to the Olympic team.” As set forth in *Komanski*, the whole purpose of clear selection criteria is so athletes know by what process they will be judged for selection.

7.6. Mr. Lea meets the “minimum eligibility” criteria in section Section 1.1 of the Athlete Selection Criteria. He demonstrated that at all relevant times he has had a valid international racing license that was issued by USA Cycling. He had a valid license in 2015 and was issued a 2016 license when he applied for one. Mr. Lea testified that he disclosed on his

application form that he was serving a sanction for an anti-doping rule violation, and USA Cycling issued the license nevertheless. Mr. Lea also testified that to the best of his knowledge, the UCI never revoked or suspended his license. USA Cycling argued that Mr. Lea did not hold – or should not have held – a valid license because Section 1.1.023 of the UCI’s Cycling Regulations requires that an athlete “to spontaneously return [his] license in the event of any substantial change to the circumstances existing at the time of the application for a license.” However, there is no basis for interpreting that rule to mean that an athlete must surrender his license during the period that he is ineligible due an anti-doping rule violation and USA Cycling did not contend that the rule had ever been interpreted in such a manner.

7.7. Furthermore, Mr. Lea is “in good standing” with USAC, USOC, UCI, and USADA, as required by Section 1.1.4.3. On March 10, 2016, Mr. Lea finished serving the six-month sanction imposed on him as a result of his positive test for noroxycodone and is “in good standing” with all of the organizations listed in the afore-referenced provision of the Athlete Selection Procedures.

7.8. As such, he meets all of the minimum eligibility criteria prior to the date on which USA Cycling nominates athletes to the Olympic Team and should have been nominated by USA Cycling to the Long Team.⁴

8. ALLOCATION OF ARBITRATION FEES AND COSTS

8.1. Under AAA Commercial Rules Section R-50, the arbitrator has discretion to assess and award such fees and costs in the final award.

8.2. In determining whether to shift the allocation of these fees and costs, as Arbitrator, I look at the conduct that gave rise to the demand for arbitration in this case which was USA Cycling’s failure to appropriately apply it rules to the facts at issue. Based on the facts of this case, weighing the relative equities and the conduct of the parties in this matter, it is noted that Claimant went to extraordinary lengths to have his anti-doping rule violation adjudicated as swiftly as possible, so he would know whether he would be eligible to compete in the 2016 Olympic Games. Respondent knew of Mr. Lea’s efforts, and knew that Mr. Lea was seeking to have the initial 16-month sanction reduced, so that he would be eligible to compete. Nonetheless, USA Cycling failed to name Mr. Lea to the Long Team. As such, the arbitration fees and costs shall be borne 100% by Respondent. Respondent shall reimburse Claimant the \$850.00 filing fee already paid to the AAA and the \$750.00 already paid by Claimant as his one half of the arbitration fees. All parties shall bear their own attorneys’ fees.

⁴ Although Claimant explained why he also met the criteria set forth in Section 1.3 of the Athlete Selection Procedures, the Arbitrator does not need to make a determination with respect to that issue. USA Cycling stated in its pre-hearing submission that it “excluded Mr. Lea from the Long Team on the basis that he was serving a drug-related suspension at the time the Long Team was named” and that “athletes must demonstrate eligibility at the time of selection to the Long Team.” The Arbitrator finds that the Athlete Selection Procedures must be read to mean that athletes must meet the eligibility requirements set forth in Section 1.1 at the time of nomination to the Olympic Team. Likewise, the Arbitrator does not need to reach the issue of whether USA Cycling’s decision not to name Mr. Lea to the Long Team constituted an extra consequence, in violation of the World Anti-Doping Code.

9. DECISION AND AWARD

9.1. On the basis of the foregoing facts, legal analysis, and conclusions of fact, the Arbitrator renders the following decision:

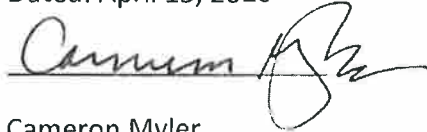
a. The arbitration claims of Robert Lea are granted and USA Cycling is directed to name Mr. Lea to the 2016 Long Team;

b. The administrative of the American Arbitration Association totaling Eight Hundred Fifty Dollars and No Cents (\$850.00) and the compensation of the arbitrator totaling One Thousand Five Hundred Dollars and No Cents (\$1,500.00) shall be borne Respondent. Therefore, Respondent shall reimburse Claimant the sum of One Thousand Six Hundred Dollars and No Cents (\$1,600.00), representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.; and

c. This Award shall be in full and final resolution of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

IT IS SO ORDERED, AWARDED, AND DETERMINED.

Dated: April 15, 2016

A handwritten signature in black ink, appearing to read "Cameron Myler", written over a horizontal line.

Cameron Myler

Arbitrator