

**BEFORE THE AMERICAN ARBITRATION ASSOCIATION  
COMMERCIAL ARBITRATION PANEL**

**AAA CASE NO. 01-15-0003-4488**

Jean Lopez, Steven Lopez, Charlotte Craig, and Samantha Leong,  
Claimants,

and

USA Taekwondo, Inc.,  
Respondent.

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**FINAL REASONED AWARD**

Pursuant to the Commercial Arbitration Rules of the American Arbitration Association (“AAA”), a lengthy evidentiary hearing was held in the above-captioned matter, by telephone, on May 7, 2015, before the sole arbitrator Jeffrey G. Benz (the “Panel” or the “Arbitrator” or “I”), who was empowered by the parties to determine the issues raised herein *de novo* and to consider the alleged infraction and the full range of penalties anew. After considering and based on the parties’ arguments, including pre- and post-hearing briefing and full evidentiary hearing submissions, the Arbitrator renders the final reasoned award herein as follows:

**I. THE PARTIES AND FACTUAL SUMMARY**

1.1 Respondent, USA Taekwondo, Inc. (“USAT”), is the United States Olympic Committee (“USOC”) recognized National Governing Body (“NGB”) for the sport of Taekwondo.

1.2 Claimant Jean Lopez is an accomplished elite coach in the sport of Taekwondo in the United States, by all accounts is one of the most successful coaches in USAT history, and is a member of USAT. Jean Lopez was selected to coach his athletes, listed below, at the World Taekwondo Federation’s (“WTF”) 2015 World Taekwondo Championships in Russia, from May 12 to May 18, 2015 (“World Championships”).

1.3 Claimants Steven Lopez, Charlotte Craig, and Samantha Leong are athlete members of USAT who qualified to compete in the World Championships (“the Athletes”), and they are coached by Jean Lopez.

1.4 A Hearing Panel of USAT’s Ethics Committee held an evidentiary hearing on May 3, 2015 and imposed a suspension of three months on Jean Lopez, after concluding that he violated several provisions of USAT’s Code of Conduct following a match between Steven Lopez and T.J. Curry on April 11, 2015. In short, they found that his misconduct consisted of making crass gestures during a “celebration” to a partially hostile crowd in a reckless manner that Mr. Lopez knew bore some danger of inciting an altercation.

1.5 Mr. Lopez filed the instant Section 9 on the basis that the three-month suspension impermissibly denies him a right to participate as a Coach at the World Championships. The Athletes join his petition and assert that their own rights to compete are impermissibly denied to the extent that their chosen coach is not there to coach them during their matches.

1.6 While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.

1.7 In recent years, evidence was submitted that WTF has been concerned to see an increase in unsportsmanlike conduct from athletes and coaches in competitive Taekwondo. This misconduct has been visited on Taekwondo at all levels, and has even afflicted Taekwondo sparring at the highest world-class and Olympic levels. From the perspective of WTF and its member IFs, this unfortunate trend is intolerable in any sport, but especially in a sport whose martial arts roots command the highest respect among coaches, combatants, officials, extending to those who are involved in Taekwondo sparring as spectators, volunteers, and event planners.

1.8 In order to combat this trend, WTF promulgated its WTF COMPETITION RULES & INTERPRETATION, the 2015 version of which is USA Taekwondo Exhibit A. The rules to which USA Taekwondo will commend your attention include the following:

Article 14 “Prohibited Acts and Penalties” – especially Rules 5.1, 5.1.1, and 5.3

Article 20 “Technical Officials” -- especially Rules 2.1, 2.2, and 2.3

Article 24 “Sanctions” – especially Rules 3.2.1, 3.2.2, 3.2.3, 3.2.4, and

USAT requested that I take note that the WTF Rules specifically state that misconduct involving spectators is sanctionable. No party claimed however that the WTF rules applied to this case.

1.9 However, USA Taekwondo has adopted a Code of Conduct that contains some of the same values as the WTF rules. The USAT Code of Conduct provisions that USAT asserted are called into play in this case include the following:

- “1. *One will act in a manner consistent with the spirit of fair play and responsible conduct.*
- ...
7. *One will abide by the policies and rules established by USAT, the USOC and the World Taekwondo Federation.*
8. *One will respect others, including coaches, competitors, officials, and spectators.*
9. *One will not engage in, nor tolerate, any form of verbal, physical*

*or sexual abuse.*

...

11. *One will refrain from illegal or inappropriate behavior that would deter from a positive image of oneself and USA Taekwondo.*
12. *One will maintain a positive attitude and act in a way that will bring honor to oneself, the staff, the sport of Taekwondo, USA Taekwondo and the United States of America.*
13. *One will remember that I [sic] am an ambassador of USA Taekwondo, my country and the Olympic movement.”*

1.10 The Code of Conduct is incorporated into USAT’s electronic membership registration through the Hangastar system in a manner that requires each registrant to acknowledge and to accept the Code of Conduct as a condition of USAT membership. In addition, compliance with the Code of Conduct and related rules is an express condition of a coach’s retention of a coaching position once appointed to, for example, the Pan American Games coaching staff.”

*“Coaches must:*

...

- 1.7 *Be in good standing with USAT and the IF without prior suspensions or misconduct resulting in a yellow card and/or sanction within the past year.”*

USAT did not contend that the Pan American Coach Selection Procedures themselves govern this dispute, but rather that the procedures (published December 11, 2014) put coaches on notice of the consequences of any sanctionable misbehavior. There are no published Coach Selection Procedures for the WTF World Championships; the USOC Bylaws require published selection procedures only for Pan American Games and Olympic Games, as opposed to all protected competitions.

1.11 There was no dispute between the parties that the USAT Code of Conduct applied here or that Mr. Lopez knew of his obligations to comport himself professionally and in accordance with the Code of Conduct.

1.12 The three-month suspension that Mr. Lopez appeals here was, according to USAT, the proverbial “last straw” in a series of events. Although the suspension immediately at issue in this case arose from a single tournament (April 11, 2015), the propriety of the sanction can be understood only in the context of previous incidents involving Mr. Lopez that demonstrate his knowledge of the consequences of his misconduct.

1.13 During the 2014 WTF Pan American Taekwondo Championships in Aguascalientes, Mexico, Steven Lopez lost to an athlete for whom the crowd was rooting. Following the match, Jean Lopez acted up, yelled at the crowd, wandered around the ring yelling at the referees for some time, and continued to storm around for a few minutes talking harshly to more referees. Later during the competition, Mr. Lopez was forced to

apologize to the entire referee group.

1.14 In February 2015, Mr. Lopez engaged in such egregious misconduct in protesting rulings by the referees that he was given a “yellow card,” which is a formal request for the imposition of sanctions under WTF rules. After completion of the match, a Competition Supervisory Board was convened. The CSB, acting as the Extraordinary Sanctions Committee pursuant to WTF Rules Article 20, Rule 2.3, interviewed the participants and witnesses to the asserted misconduct, and determined that Mr. Lopez’s behavior was so extreme that it warranted a suspension of six months.

1.15 Mr. Lopez appealed the recommendation to the tournament’s Technical Director, Bruce Harris. Mr. Harris is a very high-ranking international referee, as well as the CEO of USA Taekwondo. During the meeting, Mr. Jean Lopez and his siblings Mark Lopez and Steven Lopez (the latter of whom competed in and lost the match at which Jean Lopez was shown a yellow card) implored Mr. Harris not to impose the six month suspension recommended by the CSB. In support of their plea, Mark Lopez and Steven Lopez argued that the loss of their coach at an upcoming open tournament in Egypt would punish them as competitors unfairly. Mr. Harris accepted the Lopezes’ collective plea and allowed Jean Lopez to escape with an apology to the referees together with a warning that his behavior was intolerable and that he would not be able to talk his way out of more severe sanctions should he fail to comport himself in accordance with the rules.

1.16 We are here because on April 11, 2015, in a match in California, Steven Lopez fought T.J. Curry. During the match, two or three particularly obnoxious spectators shouted obscenities at Steven Lopez and Jean Lopez. Jean Lopez was concerned about these particular spectators because they were dressed in “wife-beater“ t-shirts, were heavily tattooed, and flashed what he took to be gang signs, and he testified that he was concerned that an altercation might break out given these spectators’ passion. In addition, Jean Lopez observed that a portion of the crowd was cheering against his brother and in favor of the other competitor, T.J. Curry.

1.17 Steven Lopez won the match, and following the match some portion of the crowd expressed its disappointment while the two or three spectators noted before continued their verbal abuse and taunting, which was recounted to be quite severe and aggressive.

1.18 At that point, Jean Lopez elected to make gestures to the crowd – according to some witnesses to confront the crowd – or perhaps all the spectators as a group – by parading in close proximity to them, grabbing his crotch and thrusting his hips at the crowd, slapping the inside of his thighs to the crowd, and generally taunting them and according to some witnesses simply blowing polite kisses to the crowd to celebrate the victory. This was a disputed fact, as witnesses affiliated with one side testified one way and witnesses affiliated with the other side testified another way.

1.19 A little more than two weeks after the event, USAT notified Mr. Lopez that his behavior violated the rules and he was invited to accept a three-month suspension in lieu of pursuit of a formal complaint. Mr. Lopez declined, denied the charges, and

requested an expedited hearing. At about the same time, T.J. Curry submitted his own complaint (that is, in addition to the USAT Complaint) regarding the same conduct, which he personally observed. USAT therefore pursued its complaint and Mr. Curry's complaint before a single Hearing Panel of the USAT Ethics Committee.

1.20 The USAT Hearing Panel issued a decision recommending imposition of a three-month suspension commencing April 11, 2015. The Hearing Panel considered the testimony of eleven witnesses to the match and its aftermath, and credited the disputed testimony to the effect that Mr. Lopez had not merely blown kisses, but rather used rude gestures in a manner that recklessly risked causing the very altercation Mr. Lopez testified that he feared. The full USAT Ethics Committee subsequently accepted the recommendation, and Mr. Lopez filed this arbitration.

## **II. JURISDICTION, PROCEDURAL HISTORY, AND STANDARD OF REVIEW**

2.1 This arbitrator has jurisdiction over this dispute pursuant to the Ted Stevens Olympic and Amateur Sports Act ("Act") 36 U.S.C. §220501, *et seq.*, because this is a controversy involving Respondent's opportunity to participate in national and international competition representing the United States. The Act states that:

"An amateur sports organization is eligible to be recognized, or to continue to be recognized, as a national governing body only if it . . . agrees to submit to binding arbitration in any controversy involving . . . the opportunity of any amateur athlete . . . to participate in amateur athletic competition, upon demand of . . . any aggrieved amateur athlete. . . , conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified and provided for in the corporation's constitution and bylaws. . ."<sup>1</sup>

1.2 Section 9.1 of the USOC Bylaws provides as follows:

"No member of the corporation may deny or threaten to deny any amateur athlete the opportunity to participate in the Olympic Games, the Pan American Games, the Paralympic Games, a World Championship competition, or other such protected competition as defined in Section 1.3 of these Bylaws nor may any member, subsequent to such competition, censure, or otherwise penalize, (i) any such athlete who participates in such competition, or (ii) any organization that the athlete represents. . ."

2.3 Under USOC Bylaws Section 1.3(u), "protected competition" means:

"1) Any amateur athletic competition between any athlete or athletes officially designated by the appropriate NGB or PSO as representing the

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<sup>1</sup> 36 U.S.C. §220521.

United States, either individually or as part of a team, and any athlete or athletes representing any foreign country where (i) the terms of such competition require that the entrants be teams or individuals representing their respective nations and (ii) the athlete or group of athletes representing the United States are organized and sponsored by the appropriate NGB or PSO in accordance with a defined selection or tryout procedure that is open to all and publicly announced in advance, except for domestic amateur athletic competition, which by its terms, requires that entrants be expressly restricted to members of a specific class or amateur athletes such as those referred to in Section 220526(a) of the Act; and

2) any domestic amateur athletic competition or event organized and conducted by an NGB [*sic*] or PSO in its selection procedure and publicly announced in advance as a competition or event directly qualifying each successful competitor as an athlete representing the United States in a protected competition as defined in 1) above.”

2.4 USOC Bylaws Section 9.7 provides that, “If the complaint [under Section 9.1] is not settled to the athlete’s satisfaction the athlete may file a claim with the AAA against the respondent for final and binding arbitration.” Under both Sections 9.7 and 9.9 of the USOC Bylaws, the arbitration proceeding may be expedited. Due to the timing of the relevant events and the nature of the relief requested here the parties agreed to expedite this proceeding. No party disputed the Panel’s jurisdiction here and in fact all consented to it and participated in these proceedings without objection. As a result, an eight-hour hearing was held by telephone conference call on May 7, 2015 where the parties provided their arguments and proofs after having filed extensive written submissions. The parties requested an interim dispositive award to be issued within two days and they requested a final reasoned award and agreed to pay for two days of hearing at \$1500 per day in compensation to the Arbitrator as a result.

2.6 On May 9, 2015, the Arbitrator issued an interim dispositive award granting the final relief as follows:

*“Pursuant to the Commercial Arbitration Rules of the American Arbitration Association (“AAA”), a lengthy evidentiary hearing was held in the above-captioned matter, by telephone, on May 7, 2015, before the sole arbitrator Jeffrey G. Benz (the “Panel” or the “Arbitrator” or “I”), who was empowered by the parties to determine the issues raised herein de novo and to consider the alleged infraction and the full range of penalties anew. After considering and based on the parties’ arguments, including pre- and post-hearing briefing and full evidentiary hearing submissions, the Arbitrator renders the dispositive portion of the award herein as follows:*

*1. The arbitration claims of Steven Lopez, Charlotte Craig, and Samantha Leong are dismissed.*

*2. The arbitration claims of Jean Lopez are resolved as follows:*

*a. The prior USA Taekwondo, Inc. issued suspension*

*of Jean Lopez of three months, from April 11, 2015 through July 10, 2015, is vacated;*

*b. The Arbitrator finds that Jean Lopez has violated paragraph 8 of the USA Taekwondo Code of Conduct;*

*c. Jean Lopez is hereby reprimanded publicly for his conduct and his violation of the USA Taekwondo Code of Conduct;*

*d. Jean Lopez' current membership in USA Taekwondo, Inc. is placed on probation for six months, starting from the date of this decision through November 8, 2015 ("the Probationary Period"), during which time he shall refrain from violating the World Taekwondo Federation and USA Taekwondo, Inc. rules and regulations regarding his conduct as a coach and as a member of USA Taekwondo, Inc. ("the relevant rules and regulations"), and the following conditions shall apply:*

*i. If, during the Probationary Period, Jean Lopez violates the relevant rules and regulations, in addition to any other penalty he may receive, he shall be suspended from membership in USA Taekwondo, Inc. for a period of three months and the conduct alleged against Jean Lopez that constituted the basis for this arbitration shall be considered as an offense should consideration of prior offenses be relevant to any future proceeding;*

*ii. If, during the Probationary Period, Jean Lopez does not violate the relevant rules and regulations then his membership shall be restored to full, non-probationary membership in USA Taekwondo, Inc. automatically when the Probationary Period ends, without the need for further action by Jean Lopez or USA Taekwondo, Inc.; and*

*iii. Jean Lopez' violation of the USA Taekwondo Code of Conduct as set forth herein shall not be considered in assessing his qualification as a USA Taekwondo, Inc. head coach or assistant coach or in or for any other official USA Taekwondo, Inc. role or position except, unless, or until he violates the relevant rules and regulations during the Probationary Period.*

*e. USA Taekwondo, Inc. shall immediately make arrangements for Jean Lopez to immediately travel to and participate as a coach in the 2015 World Taekwondo Championships to be held in Russia commencing on May 12, 2015.*

*3. The parties shall bear their own attorneys' fees and costs of this and any prior related proceedings.*

*4. The parties shall bear equally the administrative fees and expenses of the American Arbitration Association and the compensation and expenses of the arbitrator, in a final amount to be included in the final award.*

*5. The fully reasoned award shall be delivered by the Arbitrator*

hereafter, within the required time.

6. This Award is in full and final settlement of all claims and counterclaims submitted to this arbitration. All claims not expressly granted herein are hereby denied.”

2.7 The parties agreed to extend the time for the issuance of this final reasoned award until and through June 12, 2015.

2.8 In a typical Section 9 arbitration, an Arbitrator is asked to determine whether an athlete has been denied the opportunity to participate in a protected competition. The standard of review in such cases, as this Arbitrator has noted, is always *de novo* and the Arbitrator makes an independent determination as to whether the athlete satisfied the Athlete Selection Procedures. *Merson v. USA Triathlon*, AAA 77 190 00272 12, page 10 (Oct. 12, 2012) (Jeffrey G. Benz, Arb.).

2.9 This case, however, may be somewhat different. It involves a National Governing Body’s application of internal ethics procedures in a manner that resulted in a suspension of a coach for three months. It was that suspension, and not the disputed application of Coach Selection Procedures, that prevents Mr. Lopez from coaching at the World Championships or any other WTF/USA Taekwondo event until July 1, 2015. As such, while this is nominally a Section 9 case, USAT submitted its view that this is really an appeal from the imposition of sanctions under an NGB’s Code of Conduct.

2.10 Remarkably, this appears to be a novel question or one of first impression. A recent case involving the lifetime ban of a swimming coach for violation of conduct rules appeared to employ an “arbitrary and capricious” standard. *See Pliuskaitis v. USA Swimming*, AAA 77 190E 00401 13 (Mar. 26, 2014) (Carolyn B. Witherspoon, Arb.). However, the *Pliuskaitis* case also presents an express procedural opinion in advance of the hearing that the standard of review is *de novo*, while stating that the “burden of proof” requires the Claimant to demonstrate by a preponderance of the evidence that the NGB “either violated its constitution or bylaws, acted arbitrarily or capriciously, violated concepts of fundamental fairness, or was motivated by prejudice, bias, or bad faith.” Whether this is a subtle spin on the *de novo* standard or really represents a less exacting administrative hearing review is unclear.

2.11 Given that the decision at issue involves an immediate “opportunity to participate” issue arising under USOC Bylaws Section 9 (there is no dispute between the parties on this point), I will apply a *de novo* standard of review and review the case anew based on the evidence presented, finding that the NGB bears the burden of proof by a preponderance of the evidence to establish its charged violations by Jean Lopez of the Code of Conduct.

### III. ANALYSIS

#### **A. USAT’s Claimed Code of Conduct Violations**

3.1 There were multiple witnesses for each side that told very different stories.



Their stories were similar by side, with the witnesses for USAT testifying to expressive and somewhat obscene conduct and perhaps words emanating from Jean Lopez, and with the witnesses for Jean Lopez testifying that he was making friendly gestures of waving and kissing directed toward the crowd. There is quite a substantial divide separating witnesses to the same scene and very little method for me to rectify them. Given the uniformly agreed upon hostile situation that confronted Jean Lopez at the Event immediately following Steven Lopez' win, I find it more likely than not that Jean Lopez made some or all of the gestures that were testified to by the various witnesses and may even have made verbal remarks. In part I am basing this assessment on his prior conduct that was testified to at the hearing in prior events; by all accounts Jean Lopez is an energetic, exuberant coach who is dedicated to his craft and his athletes and reacts based on the moment and sometimes based on his emotions. By making this finding, I am not finding or determining that any witness lied, and no one should read my decision that way, but I do have to make a credibility determination based on all of the evidence before me and that is what I have done.

3.2 Having reviewed the Code of Conduct provisions that formed the subject of the USAT Hearing Panel's decision and constitute the charged violations asserted by USAT here, and accepting my finding that some or all of the conduct in question alleged here occurred, I find that other than Paragraph 8, the asserted provisions are so broad and general in their nature that it is virtually impossible to apply them with any degree precision to the facts of this case.

3.3 For example, Paragraph 1 exhorts those subject to the Code of Conduct to conduct themselves consistent with "the spirit of fair play and responsible conduct." What does that mean? Fair play presumably extends to conduct between competitors or between individuals who at least owe some duty to each other to play according to a set of rules and that is not present here, and I have no idea what "responsible conduct" means on the facts that have been presented to me, for example does this require someone to take responsibility for their conduct or does it require them to act in some manner that is "responsible"? It is, to say the least, unclear.

3.4 Paragraph 7 of the USAT Code of Conduct requires subject parties to follow the relevant rules. The USAT Hearing Panel did not rely on this paragraph for its decision, and for apparent good reason, because there was no clear rule violation here.

3.5 Paragraph 9 of the USAT Code of Conduct requires, in applicable part, individuals to not engage in verbal or physical "abuse". While we do not know what abuse is under the Code of Conduct because it is undefined, I decline to find that a one time use of words or conduct directed toward individuals some distance away constitutes "abuse". This rule had to have been drafted to require more than a single episode, or at least a more significant form of conducted directed toward others than simple gestures and words for a short period of time.

3.6 Paragraph 11 of the USAT Code of Conduct requires individuals to "*refrain from illegal or inappropriate behavior that would deter from a positive image of oneself and USA Taekwondo*". Clearly there was no illegal conduct here, but was it

inappropriate? How is inappropriateness to be judged? Was the conduct inappropriate under the circumstances? What does “deter” mean when used in the context of this rule? Would not the appropriate word be “detract”? What is a “positive image”? How does an individual action of a coach at an event where the coach is not acting in an official USAT role affect an image of USAT? These questions are important and the answers are not clear so I find this paragraph to not apply, or at least that it is unfair to apply it to this case.

3.7 Paragraph 12 of the USAT Code of Conduct provides that, “*One will maintain a positive attitude and act in a way that will bring honor to oneself, the staff, the sport of Taekwondo, USA Taekwondo and the United States of America.*” There was no testimony of the attitude of Jean Lopez or whether it was positive or otherwise or whether he maintained it, and what does it mean to “act in a way that will bring honor to oneself, the staff, the sport of Taekwondo, USA Taekwondo, and the United States of America”? These are lofty and terribly non-specific obligations that are difficult to apply in the absence of a criminal violation of law or some clearly despicable or wretched conduct by the person subject to these obligations. The reality is that expression oneself through gestures and words that are impolite, rude, and even obscene, whether rightly or wrongly, is a part of the fabric of expression of everyday life and to say that someone is not bringing “honor” when using them really is a difficult determination to make.

3.8 Paragraph 13 requires that, “*One will remember that I [sic] am an ambassador of USA Taekwondo, my country and the Olympic movement.*” The only conduct this paragraph requires, as worded, is that someone “remembers” something, but it does not require anyone to do anything other than that or to refrain from doing anything at all. Accordingly, I do not find a violation of this paragraph (and in fact, perhaps unlike the other paragraphs I have declined to find a violation of here, would find that a violation of this paragraph will always be very difficult to establish because of the way it is worded).

3.9 Paragraph 8 of the USAT Code of Conduct provides that, “*One will respect others, including coaches, competitors, officials, and spectators.*” I specifically find that Mr. Lopez violated this provision because this provision is specific in its requirement for showing a) “respect”, b) towards “spectators.”

3.10 No guidance was provided to assist me in determining what constitutes “respect” under the USAT Code of Conduct. However, reviewing the common usage of words (the most likely usage in this context), I can discern some of the qualities of what constitutes “respect”.

3.11 The Oxford English Dictionary defines the verb, in pertinent part, as meaning to “admire (someone or something) deeply, as a result of their abilities, qualities, or achievements” or to, “Have due regard for (someone’s feelings, wishes, or rights)”. <http://www.oxforddictionaries.com/definition/english/respect> (accessed June 12, 2015).

3.12 The Merriam-Webster Dictionary defines the verb, in pertinent part, as meaning “to feel admiration for (someone or something): to regard (someone or

something) as being worthy of admiration because of good qualities” or “to act in a way which shows that you are aware of (someone's rights, wishes, etc.)” or “to treat or deal with (something that is good or valuable) in a proper way”. <http://www.merriam-webster.com/dictionary/respect> (accessed June 12, 2015).

3.13 A similar definition can be found on [Dictionary.com](http://dictionary.reference.com/browse/respect?s=t): “to hold in esteem or honor”, or “to show regard or consideration for”, or “to refrain from intruding upon or interfering with”. <http://dictionary.reference.com/browse/respect?s=t> (accessed June 12, 2015).

3.14 The conduct that I have found that Jean Lopez engaged in at the Event clearly does not demonstrate “respect” under any definition of the verb form. In fact, Jean Lopez’ conduct clearly was intended to be disrespectful in response to the conduct directed toward him by certain spectators. Accordingly, I find this first prong of Paragraph 8 to have been violated; the absence of acting with respect was established.

3.15 It is undisputed that Jean Lopez directed his conduct toward spectators at the Event. While it was also undisputed that these spectators engaged in relatively disrespectful and, frankly, reprehensible, conduct during the event directed at Jean Lopez and Steven Lopez and perhaps even to their supporters, the USAT Code of Conduct is clear that there is a requirement to always respect spectators.

3.16 Given that I have found it more likely than not that Jean Lopez engaged in lewd gestures directed to some portion of the audience, no matter how despicable the behavior of that portion of the audience that generated this response from Jean Lopez, I am bound to find a violation. Bad conduct of others is apparently not a defense to the conduct of Jean Lopez, though one could see how and why he might have responded the way he did given the situation he faced; frankly, this Arbitrator if he would have found it difficult to have been as restrained as Jean Lopez was in his reaction. But the USAT Code of Conduct does not appear to leave room for amelioration of violations based on the circumstances, except perhaps in assessing any penalty, which is left to the discretion of the decision maker.

3.17 As a result of my determinations, I find that a reprimand and a 6-month period of probation for Jean Lopez is appropriate. In addition, none of this should have a bearing on his selection for any other international events, provided he successfully completes the probationary period without issue. I set forth the rest of my award in the section titled “Award” below.

## **B. The Athlete Claims**

3.18 The Athletes alleged that their USOC Bylaws Section 9 “opportunity participate” was infringed in some way by the USA Taekwondo decision directed at their coach. The gist of their argument is that by not having their coach at the World Championships they would be harmed in an impermissible manner. I find that the Athletes lack standing to assert this claim.

3.19 There is no right to have a particular coach at any event in the sport of Taekwondo. There is no rule of the World Taekwondo Federation or of USAT that guarantees an athlete a right to be coached by their personal coach, and in fact more than half of the USAT athletes at the World Championships will be coached by someone other than their personal coaches.

3.20 The scope of the “opportunity to participate” under Section 9 of the USOC Bylaws is not defined by the USOC Bylaws, and there are no other cases this Arbitrator could locate arising under Section 9 of the USOC Bylaws defining the “opportunity to participate” as including a right to have attend an international event a coach of the athlete’s choosing. Recognizing such a right might well have significant cost implications for NGBs and the USOC that this Arbitrator is not prepared to countenance.

3.21 In addition, the Athletes’ claims here are entirely derivative of, and based on the same facts and alleged rule violations as, the claims of their coach, Jean Lopez. In other words, addressing Jean Lopez’ claims addresses all claims and Jean Lopez’ claims have otherwise been addressed in this proceeding. There simply is no basis in Section 9 of the USOC Bylaws for claims of athletes relating to violation of their “opportunity to participate” to be derivative of Section 9 claims held by their coach.

3.22 Finally, were the Arbitrator to find that the Athletes’ claims had independent status and could stand on their own, the Arbitrator would essentially be interfering in the ability of a NGB to manage its own members and any violations of its code of ethics, because by adopting the arguments of the athletes here any conduct or ethical violations of their coach would somehow create for the Athletes a separate basis to complain. In addition, allowing the Athletes’ claims here would suggest that the Section 9 process could potentially be used as an end around other legitimate NGB disciplinary and dispute processes that are not within Section 9’s ambit. Essentially the argument goes that leniency should be accorded in cases of discipline for any kind of misconduct simply because a coach’s athletes will suffer. Such a finding would mean that USAT and any NGB would be virtually powerless to discipline misbehavior by coaches. This simply cannot be an outcome intended by the TSOASA or the USOC Bylaws.

3.23 Accordingly, I find that the Athletes’ claims here should be dismissed. To be clear, the Arbitrator’s determination here should not be read so broadly as to suggest that an athlete’s “opportunity to participate” could never be infringed by deprivation of access to a coach in a protected competition; I have not been asked to make such a decision nor could I make such a blanket decision with reach far beyond the dispute currently before me, but this Arbitrator is suggesting that such cases, sufficiently grounded, likely will be rare and should be reviewed carefully.

#### **IV. AWARD**

On the basis of the foregoing facts and legal aspects, this Arbitrator renders the following decision:

4.1. The arbitration claims of Steven Lopez, Charlotte Craig, and Samantha

Leong are dismissed.

4.2. The arbitration claims of Jean Lopez are resolved as follows:

a. The prior USA Taekwondo, Inc. issued suspension of Jean Lopez of three months, from April 11, 2015 through July 10, 2015, is vacated;

b. The Arbitrator finds that Jean Lopez has violated paragraph 8 of the USA Taekwondo Code of Conduct;

c. Jean Lopez is hereby reprimanded publicly for his conduct and his violation of the USA Taekwondo Code of Conduct;

d. Jean Lopez' current membership in USA Taekwondo, Inc. is placed on probation for six months, starting from the date of this decision through November 8, 2015 ("the Probationary Period"), during which time he shall refrain from violating the World Taekwondo Federation and USA Taekwondo, Inc. rules and regulations regarding his conduct as a coach and as a member of USA Taekwondo, Inc. ("the relevant rules and regulations"), and the following conditions shall apply:

i. If, during the Probationary Period, Jean Lopez violates the relevant rules and regulations, in addition to any other penalty he may receive, he shall be suspended from membership in USA Taekwondo, Inc. for a period of three months and the conduct alleged against Jean Lopez that constituted the basis for this arbitration shall be considered as an offense should consideration of prior offenses be relevant to any future proceeding;

ii. If, during the Probationary Period, Jean Lopez does not violate the relevant rules and regulations then his membership shall be restored to full, non-probationary membership in USA Taekwondo, Inc. automatically when the Probationary Period ends, without the need for further action by Jean Lopez or USA Taekwondo, Inc.; and

iii. Jean Lopez' violation of the USA Taekwondo Code of Conduct as set forth herein shall not be considered in assessing his qualification as a USA Taekwondo, Inc. head coach or assistant coach or in or for any other official USA Taekwondo, Inc. role or position except, unless, or until he violates the relevant rules and regulations during the Probationary Period.

e. USA Taekwondo, Inc. shall immediately make arrangements for Jean Lopez to immediately travel to and participate as a coach in the 2015 World Taekwondo Championships to be held in Russia commencing on May 12, 2015.

4.3. The parties shall bear their own attorneys' fees and costs of this and any prior

related proceedings.

4.4. The parties shall bear equally the administrative fees and expenses of the American Arbitration Association and the compensation and expenses of the arbitrator. The Administrative fees of the AAA totaling Eight Hundred Fifty Dollars and No Cents (\$850.00) and the Compensation of Arbitrator totaling Three Thousand Dollars and No Cents (\$3,000.00) are to be borne equally. Therefore, Respondent shall reimburse Claimant the sum of Four Hundred Twenty-five Dollars and No Cents (\$425.00), representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.

4.5. The fully reasoned award shall be delivered by the Arbitrator hereafter, within the required time.

4.6. This Award is in full and final settlement of all claims and counterclaims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

IT IS SO ORDERED, and signed in Madrid, Spain.



Dated: June 15, 2015

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Jeffrey G. Benz  
Arbitrator