

UNITED STATES OLYMPIC COMMITTEE

JASON TORRES)	
)	
Complainant,)	
)	
v.)	DECISION
)	
UNITED STATES TAEKWONDO UNION)	
)	
Respondent.)	January 26, 2001

I. BACKGROUND

The National Governing Body ("NGB") for the Sport of Taekwondo in the United States is the United States Taekwondo Union ("USTU"). USTU is recognized by the United States Olympic Committee ("USOC") as the NGB for the Sport of Taekwondo pursuant to the Ted Stevens Olympic and Amateur Sports Act (36 USC § 220501 *et seq.*), ("ASA").

On November 15, 2000, Jason Torres ("Complainant") filed a Complaint against USTU pursuant to Article VIII of the USOC Constitution and Chapter VIII of the USOC Bylaws.¹ Complainant alleged that USTU has failed to comply with the requirements of Article IV, Section 4(C) and Article VII, Sections 1 and 2, and that it has established a pattern of noncompliance, which renders it no longer able to function as an effective NGB.

In accordance with Chapter VIII, Section 3, USOC President, William J. Hybl, appointed a Panel of five voting members of the USOC Board of Directors for the purpose of hearing this matter. After appointment, because of her election to the position

¹ Hereinafter any reference to "Article" refers to the USOC Constitution and any reference to "Chapter" refers to the USOC Bylaws.

of Chair of the United States Olympic Committee, Sandra Baldwin resigned from serving as Chair of the Hearing Panel and appointed Marty Mankamyer to serve as Hearing Panel Chair in her place. The Panel members who were appointed and who heard this matter are:

Marty Mankamyer, Chair
USOC Vice President and USOC Board of Directors
Brian Derwin
USOC Board of Directors, USA Weightlifting
Brig. Gen. (ret.) James R. Joy
USOC Board of Directors, United States Marine Corps
Peter Westbrook
USOC Board of Directors, U.S. Athlete's Advisory Committee
Nancy Wightman
USOC Board of Directors, U.S. Synchronized Swimming

On December 1, 2000, pursuant to Chapter VIII, Section 2, USTU filed a Motion to Dismiss. A copy of the Motion was sent to Complainant by USTU. Complainant was granted an extension of time to respond to the Motion to Dismiss, and Complainant filed papers in opposition to the Motion to Dismiss on December 21, 2000. Although Article VIII and Chapter VIII require the Hearing Panel to render a decision on the Motion to Dismiss within 30 days after the filing of the Complaint, as a result of the extension of time to respond to the Motion to Dismiss granted to Complainant, the deadline for the decision was extended in order to allow the Panel adequate time to fully review this matter. Neither the Complainant nor USTU objected to this extension of time for the Panel to render a decision. The Panel met, via conference call, on January 4, 2001. As the Panel determined that oral argument was unnecessary, and as neither party requested oral argument, it proceeded to consider the Motion to Dismiss based on the papers submitted.

DECISION

In its Motion to Dismiss, USTU states as grounds for dismissal that Complainant failed to exhaust administrative remedies before USTU, or in the alternative failed to show by clear and convincing evidence that such remedies would result in unnecessary delay. In its consideration of this matter, the Hearing Panel reviewed the Complaint filed by Complainant, the Motion to Dismiss filed by USTU, and the papers in opposition to the Motion to Dismiss filed by Complainant. After such review and discussion by teleconference call, the Hearing Panel, by unanimous decision, determined to grant USTU's Motion to Dismiss for the reason that Complainant has failed to exhaust his administrative remedies or to show why such exhaustion would result in unnecessary delay.

Article VIII, Section 1(A) requires that a complainant may file a complaint with the USOC only after having exhausted all remedies available under the organic documents of the NGB, unless it can be shown by clear and convincing evidence that those remedies would result in unnecessary delay. Chapter VIII, Section 1(C) sets forth the requirement that the complaint filed by the complainant must set forth "factual allegations" showing (i) the efforts made by the complainant to exhaust administrative remedies, or (ii) the grounds on which the complainant alleges that exhaustion would result in unnecessary delay.

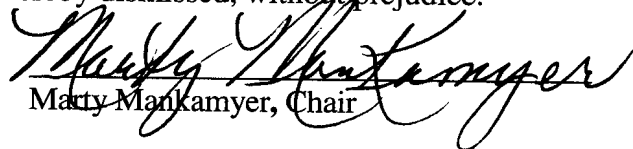
Complainant alleges that availing himself of USTU's administrative complaint procedure would result in unnecessary delay. This claim is based on Complainant's assertions that internal remedies result in frustration and that such remedies are a waste of time, that USTU fails to consider the grievances filed pursuant to its internal procedures, and that USTU fails to provide remedies for such grievances. Complainant fails to state

what, if any, steps he has taken to resolve this grievance through internal administrative procedures.

After considering Complainant's argument, the Hearing Panel is unconvinced that an allegation of frustration should excuse Complainant from exhausting his administrative remedies. Complainant has not met his burden of showing by clear and convincing evidence that pursuing his administrative remedies before USTU would result in unnecessary delay. Accordingly, the Panel finds that the Complainant has not exhausted available administrative remedies and this matter is not ripe for adjudication under Article VIII and Chapter VIII.

III. AWARD

The Hearing Panel grants USTU's Motion to Dismiss for the reason that Complainant has not exhausted his administrative remedies nor has he shown that availing himself of such remedies would result in unnecessary delay. Accordingly, the Complaint filed by Complainant is hereby dismissed, without prejudice.


Marty Mankamyer, Chair

Brian Derwin, Panel Member
Brig. Gen. (ret.) James R. Joy, Panel Member
Peter Westbrook, Panel Member
Nancy Wightman, Panel Member

Dated this 26th day of January, 2001.