

UNITED STATES OLYMPIC COMMITTEE

Michael Farry)	
)	
Complainant,)	
)	
v.)	SCHEDULING
)	AND PROCEDURAL
US Rowing)	ORDER
)	
Respondent.)	August 1, 2006

I. BACKGROUND

On July 24, 2006, Michael Farry filed a Complaint against US Rowing pursuant to Article VIII, Section 8.1, of the USOC Bylaws and Section 220527 of the Ted Stevens Olympic and Amateur Sports Act (36 USC § 220501 *et seq.*), (the "Act"). US Rowing is the National Governing Body for rowing in the United States, as recognized by the United States Olympic Committee ("USOC") pursuant to the Act.

In accordance with Section 8.1 B. of the USOC Bylaws, USOC Chair, Peter Ueberroth, appointed a Hearing Panel of five members for the purpose of hearing this matter. The Panel members are:

- James McCarthy, Chair
USOC Board of Directors
- Ron Radigonda
USOC National Governing Body Council, USA Softball
- Virginia Jasontek
USOC National Governing Body Council, USA Synchronized Swimming
- Robert Latham
USOC Multisport Organizations Council, USA Rugby
- Courtney Johnson
USOC Athletes' Advisory Council, US Water Polo

Mr. Farry's Article VIII Complaint was filed in accordance with an Order issued on July 14, 2006 by an American Arbitration Association ("AAA") hearing panel. To briefly summarize the procedural history of this matter, Mr. Farry first filed an Article VIII Complaint with the USOC on January 16, 2006. That Complaint was rejected by the USOC General Counsel as being deficient, without a USOC hearing panel having been convened. Mr. Farry then proceeded to file a Claim with the AAA on February 2, 2006 asserting the same grounds as he asserted in his January 16 Article VIII Complaint. US Rowing moved to dismiss Mr. Farry's AAA Claim on jurisdictional grounds. The AAA hearing panel in its July 14 Order granted the motion to dismiss the AAA Claim, but also granted Mr. Farry leave until July 24, 2006 to file a new Article VIII Complaint with the USOC.

Although the USOC was not a party to Mr. Farry's AAA Claim, and therefore not subject to the jurisdiction of the AAA, the AAA hearing panel has requested that the USOC be guided by the AAA hearing panel's July 14 Order. In that Order the AAA hearing panel provided that US Rowing should be allowed to file a motion or objection to Mr. Farry's new Article VIII Complaint, and requested that the USOC rule on any such motion or objection by August 14, 2006.¹

II. PRELIMINARY PROCEDURAL CONSIDERATION

Section 8.1 F. of the USOC Bylaws provides that a respondent shall have 20 days after receipt of an Article VIII Complaint to file a motion to dismiss on procedural or

¹ Without subjecting the USOC to the jurisdiction of the AAA, the USOC Hearing Panel will accommodate the AAA hearing panel's request.

jurisdictional grounds.² Section 8.1 F. also provides that the complainant shall be given an opportunity to respond to any such motion. Section 220527(b)(2) of the Act provides that the USOC shall rule on any motion to dismiss for failure to exhaust administrative remedies within thirty days of the filing of the Article VIII Complaint.

In order to comply with the July 14 Order of the AAA hearing panel, the time considerations set forth in the USOC Bylaws and in the Act will have to be shortened. Since both Mr. Farry and US Rowing are bound by the July 14 Order, and since this Hearing Panel wishes to accommodate the AAA hearing panel, the following schedule for submission of a motion to dismiss and for a ruling on that motion to dismiss will be shortened. If either Mr. Farry or US Rowing objects to this shortened schedule, then they should promptly file an appropriate request for relief from the July 14 Order with the AAA hearing panel.

III. SCHEDULING AND PROCEDURAL ORDER

1. The Hearing Panel sets the following schedule:
 - a. US Rowing shall have until 5:00 PM Mountain Daylight Time on Thursday, August 3, 2006 to file a motion to dismiss on procedural or jurisdictional grounds.
 - b. If US Rowing files a motion to dismiss, then Mr. Farry shall have until 5:00 PM Mountain Daylight Time on Monday, August 7 to file a response.

² Section 8.1 A. of the USOC Bylaws provides that a complainant shall serve a copy of the complaint on the respondent and shall file with the USOC proof of service that the complaint has been served on the respondent. Since Mr. Farry did not file such proof of service, the Hearing Panel can not compute when, or even if, Mr. Farry filed his new Article VIII Complaint on US Rowing.

- c. If US Rowing files a motion to dismiss, a telephonic hearing will be held on that motion at 3:00 PM Mountain Daylight Time on Wednesday, August 9, 2006. The hearing will last for no more than one hour. Each party shall have 20 minutes to present argument, with 5 minutes for rebuttal.
2. Any motion to dismiss and response shall be sent by email to the attention of Gary L. Johansen and Kathryn Jordan at the USOC Office of General Counsel. Mr. Johansen's email address is gary.johansen@usoc.org and Ms. Jordan's email address is kathryn.jordan@usoc.org. If Mr. Johansen or Ms. Jordan need to be reached by phone, their phone number is (719) 866-4563.
3. If either US Rowing or Mr. Farry is represented by counsel, they shall notify each other, and Mr. Johansen and Ms. Jordan, of who that counsel is by 5:00 PM Mountain Daylight Time, Wednesday, August 2, 2006.
4. US Rowing shall serve on Mr. Farry by email a copy of its motion to dismiss and a copy of any other communication relating to this matter. Mr. Farry shall serve on US Rowing by email a copy of his response to the motion to dismiss and a copy of any other communication relating to this matter. If either Mr. Farry or US Rowing is represented by counsel, the above mentioned documents shall be served on counsel. Mr. Johansen and Ms. Jordan shall be copied on the service to the other party.
5. The Office of General Counsel shall distribute all communications to the members of the Hearing Panel. There shall be no *ex parte* communication between the parties or their counsel and members of the Hearing Panel.

Dated this 1st day of August, 2006.


James McCarthy, Chair

Ron Radigonda, Panel Member
Virginia Jasontek, Panel Member
Robert Latham, Panel Member
Courtney Johnson, Panel Member