

UNITED STATES OLYMPIC COMMITTEE

Farah Hall	)	
	)	
Complainant,	)	
	)	
v.	)	REQUEST FOR
	)	INFORMATION
US Sailing	)	
	)	
Respondent.	)	April 28, 2008

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I. BACKGROUND

On February 7, 2008 Ms. Farah Hall (“Hall”) filed a Complaint with the United States Olympic Committee (“USOC”) against US Sailing 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 §§ 220501-220529) (the “Act”). US Sailing responded by filing a Motion to Dismiss on April 11, 2008. Ms. Nancy Rios (“Rios”) filed a Request to Intervene on April 2, 2008.<sup>1</sup>

The USOC Hearing Panel conducted a hearing on April 17, 2008 regarding US Sailing’s Motion to Dismiss. The Hearing Panel also heard argument on Ms. Rios. Request to Intervene. Following the hearing, the Panel afforded the Parties and Ms. Rios an opportunity to provide certain documents pertaining to the Motion to Dismiss, and more specifically pertaining to the grievance filed by Ms. Hall that was heard by US Sailing’s Review Board. The Panel appreciates that additional documents were provided for the Panel’s review.

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<sup>1</sup> This Request for Information does not pertain to Ms. Rios Request to Intervene.

Ms. Hall has also filed an Article IX Complaint with the USOC, which will be heard by an American Arbitration Association (“AAA”) arbitrator, regarding her allegations that she is being denied her opportunity to participate in the 2008 Olympic Games.

## II. DISCUSSION

The issue before the Panel is whether or not, as a precondition to filing an Article VIII Complaint with the USOC, Ms. Hall has exhausted her administrative remedies with US Sailing, as is required by Section 220527 of the Act and Section 8.1.E of USOC Bylaws.

It appears to the Panel that the Parties have confused Ms. Hall’s Article IX proceeding with her Article VIII proceeding. An Article IX proceeding pertains to whether or not an athlete has been denied his or her opportunity to participate in a protected competition. There is no exhaustion requirement in an Article IX proceeding. Further, after filing a complaint with the USOC, an athlete may proceed directly to arbitration before the AAA and have the matter heard by an AAA arbitrator.

Article VIII proceedings pertain to whether or not a National Governing Body (“NGB”) is complying with its responsibilities as an NGB, i.e. is it complying with Sections 220522, 220524 and 22052 of the Act.

Ms. Hall’s Article IX Complaint concerns her allegations that she is being denied her opportunity to participate in the 2008 Olympic Games. It is Ms. Hall’s contention that she should be named to the 2008 Olympic Sailing Team that will compete at those Games. Ms. Hall contests the ruling of US Sailing’s Protest Committee, which granted

Ms. Rios' Request for Redress, and which places Ms. Rios on the 2008 Olympic Sailing Team. That issue will be heard by the AAA arbitrator.

Ms. Hall's Article VIII Complaint alleges that US Sailing is not in compliance with the Act, claiming that US Sailing's Redress process, which hears athlete protests, lacks due process protections and is otherwise procedurally flawed. Ms. Hall specifically challenges the process and procedures used by US Sailing in Request for Redress proceedings (particularly when those proceedings relate to the selection of athletes to a US Olympic Team).

Ms. Hall claims to have exhausted her administrative remedies as to her Article VIII Complaint when she filed a grievance with US Sailing pursuant to Part VII of US Sailing's Bylaws and Section 15 of US Sailing's Regulations. Section 15 specifically states that a member may file a proceeding against US Sailing "alleging a deficiency" and "seeking to compel [US Sailing] as a National Governing Body to comply with the requirements prescribed in the Sports Act and the USOC [Bylaws]." Section 15 further states that such complaints shall be heard by a Review Board. It is Ms. Hall's contention that her grievance was heard by a Review Board, and that the Review Board issued a ruling dated December 17, 2007 (Case Number 07-15-04) denying Ms. Hall's grievance. The Parties have furnished a copy of the December 17 ruling to the Hearing Panel.

US Sailing seems to contest that Ms. Hall has exhausted her administrative remedies.

In order to bring some clarity to this issue, the Hearing Panel requests that the Parties provide additional information to the Panel.

### III. QUESTIONS

Each Party shall submit its responses to the questions that follow by May 7, 2008.

The responses should be submitted to the Hearing Panel, addressed to Susan Riggs, with a copy to Gary Johansen. Ms. Riggs will distribute the Parties' responses to the Hearing Panel. All information should be submitted by email. Ms. Riggs' email address is [susan.riggs@usoc.org](mailto:susan.riggs@usoc.org). Her telephone number, in case anyone needs to reach her by phone, is (719) 866-4563. Mr. Johansen's email address is [gary.johansen@usoc.org](mailto:gary.johansen@usoc.org).

Further, each Party should provide a copy of its response to the other Party and to Ms. Rios.

In responding to the questions below, the Parties need to keep in mind that the Hearing Panel is not concerned with matters that may have been heard or not heard regarding Ms. Hall's Article IX Complaint, as the issue before the Panel is whether or not Ms. Hall has exhausted her administrative remedies pertaining to her Article VIII Complaint.

1. Was Ms. Hall's grievance, filed pursuant to Part VII of US Sailing's Bylaws and Section 15 of US Sailing's Regulations, properly filed with US Sailing, was a Review Board appointed, and did the Review Board render a final decision on the grievance?
2. Did the Review Board appoint a Hearing Panel to hear Ms. Hall's grievance, or was the grievance heard directly by the Review Board?
3. What was the substance of Ms. Hall's grievance before the Review Board?

4. Did the Review Board issue a ruling on “whether or not US Sailing is in compliance with the Act” or on “whether or not Ms. Hall should be named to the 2008 Olympic Sailing Team?” The Hearing Panel notes that the December 17 Decision states that a US Sailing Hearing Panel or Review Board does not have the authority to alter the standing of any boat in an event as determined by a Protest Committee.
5. Is there any further action that Ms. Hall must take in order to exhaust her administrative remedies pertaining to her grievance?
6. On what basis does US Sailing assert that Ms. Hall has not exhausted her administrative remedies? On what basis does Ms. Hall assert that her administrative remedies have been exhausted?

*Nina Kemppe*

Nina Kemppe, Chair

*by Susan Riggs*

Scott Fortune, Panel Member

Bob Mitchell, Panel Member

Jeanne Picariello, Panel Member

Ron Van Pool, Panel Member

Signed this 28th day of April, 2008.