

UNITED STATES OLYMPIC COMMITTEE

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| SARA MCMANN, PATRICIA MIRANDA,<br>AND RANDI MILLER      | ) |                  |
|   | ) |                  |
| Complainant,  | ) |                  |
|   | ) | ORDER            |
| v.  | ) |                  |
|   | ) |                  |
| UNITED STATES OF AMERICA<br>WRESTLING ASSOCIATION, INC. | ) |                  |
|   | ) |                  |
| Respondent.   | ) | December 3, 2009 |

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I. THE PARTIES

1. Sara McMann, Patricia Miranda and Randi Miller (“Complainants”) are elite U.S. women wrestlers, each having medaled for the U.S. in the Olympic Games. They are also members of United States of America Wrestling Association, Inc. (“USAW”).

2. USAW is the National Governing Body (“NGB”) for the sport of wrestling in the United States, as recognized by the United States Olympic Committee (“USOC”) pursuant to the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220529) (the “Act”).

II. COMMENCEMENT OF PROCEEDING AND CLAIM

3. On October 23, 2009, Complainants filed this Complaint against USAW pursuant to Section 220527 of the Act and Section 10 of the USOC Bylaws.

4. Complainants allege in their Complaint that USAW is:
  - a) in violation of Section 220524(6) of the Act for failure to provide “equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;”
  - b) in violation of Section 220522(a)(8) of the Act for failure to provide “an equal opportunity to amateur athletes ... to participate in amateur athletic competition, without discrimination on the basis of ... sex ..., and with fair notice and opportunity for a hearing to any amateur athlete ... before declaring the [athlete] ineligible to participate;”
  - c) in violation of Section 220522(a)(13) of the Act for failure to provide “procedures for the prompt and equitable resolution of grievances of its members;”
  - d) in violation of Section 220522(a)(9) of the Act for failure to provide “for the reasonable representation of both males and females on the board of directors” of USAW; and
  - e) in violation of Section 220524(3) of the Act for failure to “keep amateur athletes informed of policy matters and reasonably reflect the views of athletes in its policy decisions.”

### III. PANEL COMPOSITION AND ORDER RELATING TO DISCLOSURE

5. In accordance with Section 220527(a)(2) of the Act and Section 10.6 of the USOC Bylaws, USOC Acting Chief Executive Officer, Stephanie Streeter, appointed a Hearing Panel of three members for the purpose of hearing this matter. The Panel members are:

Sonja Keating, Chair

US Equestrian Federation, USOC National Governing Bodies Council,  
Olympic Assembly

Paul DePace, Panel Member

Wheelchair Sports USA, USOC Multisport Organizations Council,  
Olympic Assembly

Carol Cronin, Panel Member

United States Sailing, USOC Athletes’ Advisory Council, Olympic  
Assembly

6. Claimants and USAW have been provided with a Hearing Panel Statement of Disclosure. If there is any objection to the Hearing Panel as so composed, Claimants and USAW shall each respond accordingly by December 10, 2009.

IV. JURISDICTION

7. The Hearing Panel has authority to hear this Complaint pursuant to Section 220527 of the Act and Section 10 of the USOC Bylaws.

V. BACKGROUND

A. Motion to Dismiss

8. On November 23, 2009, USAW filed a Motion to Dismiss the Complaint. The Motion was based on three grounds. First, USAW asserts that Complainants have not exhausted their administrative remedies as is required by Section 220527(b) of the Act and Section 10.11 of the USOC Bylaws.

9. Second, USAW asserts that the Complaint fails to state a claim for which relief can be granted.

10. Third, USAW asserts that the Complaint seeks relief that is outside of the authority of the Hearing Panel to grant.

11. In light of the Hearing Panel's Order concerning mediation, which follows, the Hearing Panel will not set a scheduling order for Complainants to respond to the Motion to Dismiss, or rule on the Motion to Dismiss.

B. Mediation

12. USAW in an email dated November 20, 2009, addressed to the Complainants, and submitted to the Hearing Panel, stated that it would participate in mediation of the allegations set forth in the Section 10 Complaint if Complainants were

so inclined. Additionally, USAW set forth a number of parameters for proceeding with mediation. Those included that the mediation would take place in Colorado Springs, that the mediation would be scheduled for one day (and that the following day be kept open if a second day of mediation seemed advisable), that the parties would each bear their own costs of participating in the mediation and that a mediator be chosen as soon as possible.

13. Complainants in a letter dated November 20, 2009, addressed to the Hearing Panel, and responding to USAW's November 20 email, also indicated their desire to mediate this matter. Additionally, in their letter Complainants requested that the Hearing Panel:

direct that this matter promptly be referred to mediation, with a deadline set by the Hearing Panel for completion of the mediation, under the direction of a mediator appointed by the USOC's CEO, after consultation of the parties.

#### VI. ORDER RELATING TO MEDIATION

14. Section 10.8 of the USOC Bylaws provides that upon the request of a party, the Hearing Panel may adjourn a Section 10 proceeding and allow for mediation.

15. In those instances where mediation is sought, Section 10.8 also provides that the USOC Chief Executive Officer shall appoint the mediator, after consultation with the parties.

16. Additionally, Section 10.8 provides that the parties shall pay for the costs associated with the mediation.

17. Based on the communications of the Complainants and USAW, the Hearing Panel orders that Complainants and USAW enter into mediation concerning the Section 10 proceeding filed by Complainants.

18. Accordingly, this Section 10 proceeding is adjourned to allow for Complainants and USAW to attempt to mediate their differences.

19. Complainants and USAW shall confer with the USOC Acting Chief Executive Officer concerning the appointment of a mediator.<sup>1</sup> Such appointment shall occur as soon as practical, but not later than December 10, 2009. Complainants and USAW shall inform the Hearing Panel that a mediator has been appointed.

20. Complainants and USAW shall each bear their own costs associated with the mediation effort, unless they mutually agree otherwise as part of the mediation process.

21. Complainants and USAW shall immediately confer to determine the parameters of the mediation, other than costs, which is dealt with above. If Complainants and USAW can not agree on the parameters of the mediation, they shall submit their positions to the mediator, who shall have the authority to rule on those parameters so as to get the parties to the mediation table.

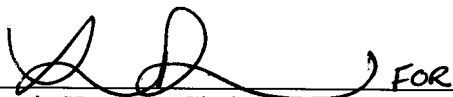
22. Complainants and USAW shall report back to the Hearing Panel concerning whether or not their mediation efforts have been successful by January 15, 2010.

23. If the parties wish to continue with mediation efforts after January 15, they shall also report this to the Hearing Panel. Additionally, they shall provide the Hearing Panel with a recommended date for further adjournment.

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<sup>1</sup> Complainants and USAW may also wish to notify the USOC Athlete Ombudsman regarding mediation of the Section 10 Complaint and determine if he may be of assistance in suggesting a mediator.

24. If mediation is not successful, and the parties do not wish to continue with mediation efforts after January 15, the Hearing Panel will issue a subsequent scheduling order, which, among other things, will notify the Complainants of the date by which they may respond to the Motion to Dismiss.

  
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FOR  
Sonja Keating, Chair

Paul DePace, Panel Member  
Carol Cronin, Panel Member

Dated this 3<sup>rd</sup> day of December, 2009