

UNITED STATES OLYMPIC COMMITTEE

Maurice Smith,)
)
 Complainant,)
)
 vs.)
)
 USA Dance, Inc.,)
)
 Respondent.)

DECISION

November 16, 2009

I. THE PARTIES

1. Maurice Smith (“Smith”) is a member of USA Dance, Inc. (“USA Dance”). He is also a registered social dancer with Tallahassee USA Dance – Chapter 6010 (“Tallahassee Chapter”), which is the Tallahassee, Florida Chapter of USA Dance.

2. USA Dance is a Recognized Sport Organization member of the United States Olympic Committee (“USOC”). USA Dance is recognized by the USOC pursuant to the authority granted to it by the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220529) (the “Act”) and as set forth in Sections 8.1 and 8.2 of the USOC Bylaws.

II. COMMENCEMENT OF PROCEEDING AND ALLEGATION OF COMPLAINT

3. On July 29, 2009,¹ Smith filed a Complaint against USA Dance pursuant to Section 10 of the USOC Bylaws and Section 220527 of the Act.² Smith supplemented his Complaint with an Addendum dated August 12, 2009.

¹ The Complaint was dated July 17, 2009, but was not received by the USOC until July 29, 2009.

² Complaints filed pursuant to these provisions are commonly referred to as Section 10 Complaints.

4. The underlying issue that gave rise to Smith's grievance with USA Dance involved Smith's removal from the board of directors of the Tallahassee Chapter. This occurred in July 2007. Removal was by action of the Tallahassee Chapter and not by USA Dance.

5. Smith in his Complaint asserts that his removal from the board of directors of the Tallahassee Chapter and USA Dance's handling of his subsequent grievance violated Florida statutes and USA Dance's bylaws. Smith, in his Addendum also asserts that USA Dance is in violation of Section 8.7(d) of the USOC Bylaws, which requires adoption of a code of ethics, and Section 8.7(l) of the USOC Bylaws, which requires financial and operational transparency and accountability.³

III. PANEL COMPOSITION

6. In accordance with Section 10.6 of the 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:

Barbara Smith, Chair

USOC National Governing Body Council, U.S. Tennis Association, USOC Olympic Assembly

Fred Benjamin

USOC National Governing Body Council, U.S. Speedskating, USOC Olympic Assembly

Jon McCullough

USOC Athletes' Advisory Committee, U.S. Paralympics – Soccer, USOC Olympic Assembly

³ Section 8.7 of the USOC Bylaws specifically pertains to membership requirements for Olympic, Pan American and Paralympic Sport Organizations, not Recognized Sport Organizations. Membership requirements for Recognized Sport Organizations are set forth in Section 8.12 of the USOC Bylaws. Section 8.12 does not specifically mention adoption of a code of ethics or financial and operational transparency and accountability. However, one of the membership requirements set forth in Section 8.12 mandates that a Recognized Sport Organization "comply substantially with Sections 220522 through 220525 of the Act." Section 220522(a)(2) of the Act provides that an amateur sports organization have "the managerial and financial capacity to plan and execute its obligations" as a sports governing body.

IV. MOTION TO DISMISS

A. Background

7. On September 25, 2009 USA Dance filed a Motion to Dismiss the Complaint pursuant to Section 10.12 of the USOC Bylaws.

8. The Hearing Panel allowed Smith until October 20, 2009, to file a response.

9. Smith filed an Opposition to the Motion on October 14, 2009.

10. The Hearing Panel met by telephone conference call to discuss and deliberate on the Motion to Dismiss. In its consideration of the Motion to Dismiss, the Hearing Panel reviewed the Complaint and all papers filed in support of and in opposition to the Motion.

B. Ruling

11. For the reasons set forth below, it is the determination of the Hearing Panel that the Motion to Dismiss is granted. The Hearing Panel's determination was unanimous.

C. Analysis

12. USA Dance in its Motion to Dismiss asserts that Smith's Complaint should be dismissed for lack of jurisdiction and for failure to state a claim upon which relief can be granted.

13. First, USA Dance states that Section 10 of the USOC Bylaws and Section 220527 of the Act do not provide the USOC with jurisdiction to compel USA Dance to

comply with Florida statutes or USA Dance's own bylaws relating to dismissal of an individual from the board of directors of a local chapter.⁴

14. Second, relating to Smith's allegations concerning USA Dance's non-compliance with Sections 8.7(d) and 8.7(l) of the USOC Bylaws, USA Dance asserts that Smith has alleged no facts in his Complaint that USA Dance violated those Sections. Put another way, USA Dance asserts that those Sections are completely irrelevant to the factual allegations set forth in Smith's Complaint.

15. Also, USA Dance relates that in 2007 Smith filed a grievance with USA Dance challenging his dismissal from the board of directors of the Tallahassee Chapter. On or about May 22, 2008, the grievance was decided against Smith.⁵

16. Further, USA Dance points out that in 2008 Smith filed a civil lawsuit in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida against various board members of the Tallahassee Chapter and USA Dance. On November 6, 2008, the Court found that Smith's complaint failed to state a claim upon which relief could be granted. The Court dismissed the complaint without prejudice and allowed Smith twenty days in which to attempt to cure the defects in his complaint or have the complaint dismissed with prejudice. Rather than file an amended complaint, Smith moved the Court for voluntary dismissal, which was granted by the court on December 2, 2008.

17. In his Opposition, Smith focuses his arguments primarily on his alleged improper removal from the board of directors of the Tallahassee Chapter. He states:

⁴ USA Dance asserts that the reason for Smith's removal from the Tallahassee Chapter board was because Smith had a conflict of interest which prevented Smith's service as a board member.

⁵ Smith makes no complaint about the length of time it took to process his grievance. At one point in the proceeding Smith communicated with the grievance officer stating not to "hurry up the process" and to "slow down & study the details [of the grievance] until you understand all of the details."

In plain English, many Errors/Mistakes were made in the surprise Motion to Remove a Director [Smith] from the Board; and the vote count was wrong. Many Errors/Mistakes were made in the election of Officers to the Board of Directors of Tallahassee Chapter 6010 (Jan 2007), and USA Dance Chapter Election Procedures were violated.

18. Section 10 of the USOC Bylaws and Section 220527 of the Act provides that a person may compel a Recognized Sport Organization to comply with Sections 220522-220525 of the Act and Section 8.12 of the USOC Bylaws.

19. Further, a complaint filed pursuant to Section 10 of the USOC Bylaws and Section 220527 of the Act must set forth with specificity a) the alleged grounds of non-compliance and b) the factual allegations forming the basis for non-compliance.

20. Smith's Complaint fails in meeting these requirements. First, his Complaint alleges USA Dance's non-compliance with Florida statutes and with its own bylaws, both relating to Smith's removal from the board of directors of the Tallahassee Chapter. These claims do not fall within the compliance requirements as set forth in Sections 220522-220525 of the Act or Section 8.12 of the USOC Bylaws.

21. Second, the allegations relating to USA Dance's failure to adopt a code of ethics and lack of financial and operational transparency and accountability, although possibly a valid claim under the provisions of the Act and USOC Bylaws, are unsubstantiated by any factual basis. Further, those issues are totally unrelated to Smith's claims concerning his removal from the board of directors of the Tallahassee Chapter, which is the basis for his Complaint.


22. Further, it is not lost on the Hearing Panel that the real issue at controversy here is Smith's objection to his removal from the board of directors of the Tallahassee Chapter. A Section 10 Complaint is not the proper forum for resolving that dispute. The

Hearing Panel does not have the authority to reinstate Smith to the board of directors of the Tallahassee Chapter. Nor is this Panel empowered to take evidence and render a decision on whether or not the Tallahassee Board decision was proper, because this Panel has no jurisdiction to do so.

23. Accordingly, the Hearing Panel finds that it does not have jurisdiction to hear this matter.

V. ORDER

24. Accordingly, USA Dance's Motion to Dismiss is granted and Smith's Section 10 Complaint is dismissed.



Barbara Smith, Chair

Fred Benjamin, Panel Member
Jon McCullough, Panel Member

Signed this 16th day of November, 2009