

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

UNITED STATES WRESTLING FEDERATION,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO.
v.	)	13460-78
	)	
UNITED STATES OLYMPIC COMMITTEE	)	JUDGE STEWART
	)	
Defendant, and	)	
	)	
WRESTLING DIVISION OF THE AAU, INC.,	)	
	)	
Defendant-Intervenor.	)	

JUDGMENT

This cause came on to be heard upon the verified complaint of the United States Wrestling Federation, the answer of the United States Olympic Committee, the answer and counterclaim of the Wrestling Division of the AAU, Inc., and the reply and counterclaim of the United States Wrestling Federation. On consent, all claims of the parties were consolidated into a single hearing on the merits. The parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to present evidence bearing on the issues, and to argue on the evidence and applicable law. The Court has fully considered the pleadings, the evidence, arguments, and memoranda of counsel. Upon the entire record, this Court makes the following:

FINDINGS OF FACT

1. This Court finds those facts, not expressly set forth herein, which are contained in the Stipulation of Facts entered into by the parties filed with the Court on March 12, 1979.

2. The International style of amateur wrestling on the program of the Olympic Games -- Freestyle wrestling and Greco-Roman wrestling (hereinafter referred to as "the International style amateur wrestling") -- takes place at world, continental and regional championships, tournaments and meets involving national, club, collegiate and schoolboy teams.

3. Plaintiff, United States Wrestling Federation ("USWF"), is a not-for-profit corporation organized and existing under the laws of the State of Oklahoma with its principal place of business located at Stillwater, Oklahoma. The USWF operates a national program for the promotion and development of international style amateur wrestling.

4. Defendant-Intervenor, Wrestling Division of the AAU, Inc. ("WD/AAU"), is a not-for-profit corporation organized and existing under the laws of the State of Ohio with its principal place of business located in Lincoln, Nebraska. The WD/AAU operates a national program for the promotion and development of international style amateur wrestling.

5. Defendant, United States Olympic Committee ("U.S.O.C."), is a corporation chartered by the United States Congress in 1950 (36 U.S.C. §371, et seq., as amended by the Amateur Sports Act of 1978, Pub.L.No. 95-606, which became law on November 8, 1978). Its principal place of business is located at Colorado Springs, Colorado, and it operates in all fifty states and the District of Columbia.

6. Pursuant to the authority vested in it by Congress, the U.S.O.C. has adopted, and from time to time altered, a constitution to govern its affairs. The U.S.O.C. Constitution in effect at the time of USWF's application to U.S.O.C. for Group A membership therein, referred to in paragraph 18 hereof, was adopted by the U.S.O.C. in May, 1977.

7. At the time of USWF's application to U.S.O.C. for Group A membership therein, referred to in paragraph 18 hereof, the U.S.O.C. recognized WD/AAU as this nation's National Governing Body for amateur wrestling.

8. International style amateur wrestling is on the program of the Olympic Games. Since 1896, the Olympic Games have been conducted and controlled by the International Olympic Committee ("IOC") which is headquartered in Switzerland.

9. Pursuant to IOC Rule 24, each nation wishing to participate in the Olympic Games must maintain a "National Olympic Committee" which is recognized by the IOC. The IOC recognizes the U.S.O.C. as the National Olympic Committee for the United States.

10. In addition to recognizing a National Olympic Committee in each participating nation, the IOC also designates the International Sports Federation which governs each Olympic sport. The IOC has designated the Federation Internationale de Lutte Amateur ("FILA"), also headquartered in Switzerland, to act as the International Sports Federation for international style amateur wrestling.

11. FILA establishes rules and regulations (including eligibility rules for athletes) for international style amateur wrestling, supervises Olympic and international competition in amateur wrestling, and selects and trains officials for such competition.

12. FILA elects one amateur wrestling organization in each nation as its affiliate member for that nation; and FILA, by virtue of its designation by IOC as the international sports governing body and its power to determine the eligibility of amateur wrestlers and officials to participate in international competition, controls international style amateur wrestling internationally through, inter alia, its national affiliate members around the world.

13. At FILA's biennial Congress held during the Olympic Games in Munich in 1972, WD/AAU was elected to membership in FILA.

14. IOC Rule 24 provides that each National Olympic Committee must include in its membership, representatives of those sports organizations within its nation which are members of the IOC-designated International Sports Federations which must constitute a "voting majority". Article III, Section 3 of the U.S.O.C. Constitution establishes "Group A" membership for each Olympic and Pan-American sport and vests voting control in "Group A, Olympic Division" members, of which there is one for each Olympic sport.

15. Eligibility requirements for Group A membership are set forth in Article III, Section 3 of the U.S.O.C. Constitution.

16. At the time of USWF's application to U.S.O.C. for Group A membership therein, referred to in paragraph 18 hereof, WD/AAU was the USOC's Group A member for amateur wrestling.

17. Article V, Section 6 of the U.S.O.C. Constitution provides:

Any national amateur sports organization which holds -- or which applies for -- and is denied after a hearing by the House of Delegates or Executive Board, whichever meets first, membership in Group A may submit a claim to the American Arbitration Association for binding arbitration under the following conditions:

(a) The claim must be submitted to the Association not later than one year after the termination of any summer Olympic Games, and due notice of the submission must be promptly served upon the then recognized body (if any), and upon the U.S.O.C. All challenges filed with respect to a particular sport during any one period in which challenges may be made pursuant to this section shall be determined in a single arbitration proceeding. Parties to the arbitration agree to be bound by the determination of the arbitrators.

(b) The claimant must establish by a preponderance of evidence that it provides at the time of arbitration and in comparison with the governing body then recognized by the U.S.O.C. (if any), more comprehensive and effective national competition (for individuals or teams at all levels of athletic activity) in the Olympic sport for which it claims recognition as the governing body, so that such competition will result in a higher quality of United States athletes in all international amateur athletic competition for such sport, and that the claimant complies in every respect with the requirements for election to Group A as set forth in Article III, Section 3, of this Constitution.

(c) The arbitration shall proceed under the commercial rules of the American Arbitration Association, except as modified herein or by agreement of the parties, before a panel of not less than three (3) arbitrators selected by the Association, and not less than ninety (90) days after the national amateur sports organization submitted its claim to the Association.

(d) The arbitrators by a majority of their number shall expeditiously decide the controversy in the manner that, in their judgment, shall best serve the objectives and fulfill the responsibilities of the U.S.O.C. under its Congressional charter and the rules of the International Olympic Committee. If the Group A member challenged in the arbitration proceeding is in default in the performance of any of its obligations under Article III, Section 3, herein, it shall not be denied its membership if it fulfills those obligations within a period prescribed by the arbitrators.

(e) If the principal controversy is between two (2) or more organizations for recognition as the national governing body in a particular sport, the arbitration award shall be served upon the U.S.O.C. in the same manner as it is on the parties to the arbitration. If the award upholds a claim of a national amateur sports organization for recognition as a national governing body, the U.S.O.C. shall, not later than the sixty-first (61) day after such decision, recommend and support in any other appropriate manner such sports organization to the appropriate International Sports Federation for recognition by such federation as the governing body, any contrary provision in Article III, Section 3, notwithstanding.

18. On June 13, 1977, USWF, purporting to act pursuant to Article V, Section 6 of the U.S.O.C. Constitution, applied to the U.S.O.C. to replace WD/AAU as the Group A member for amateur wrestling.

19. USWF's application was heard by the Executive Board of the U.S.O.C. at its meeting at Squaw Valley, California on July 30, 1977. The Executive Board denied USWF's application.

20. Thereafter, USWF, again purporting to act pursuant to Article V, Section 6 of the U.S.O.C. Constitution, filed with AAA's Chicago, Illinois office a Demand for Arbitration dated July 30, 1977.

21. WD/AAU, also purporting to act pursuant to Article V, Section 6 of the U.S.O.C. Constitution, filed a Demand for Arbitration, dated July 29, 1977, with the AAA's New York, New York office. WD/AAU subsequently withdrew such demand.

22. The arbitration proceeded forward in Chicago, before a panel of three arbitrators. By an Award dated September 7, 1978, the three arbitrators unanimously found that:

The UNITED STATES WRESTLING FEDERATION has established its claim for recognition as the Group A member of the UNITED STATES OLYMPIC COMMITTEE for AMATEUR WRESTLING and is entitled to replace the AAU WRESTLING COMMITTEE, AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC. as such member.

23. On September 23, 1978, a meeting of the U.S.O.C. Executive Board was held in Somerset, New Jersey. At that meeting, the U.S.O.C. Counselor, Patrick Sullivan, Esq., advised the U.S.O.C. Executive Board that, in his opinion, as a result of the arbitration Award, the USWF had become the National Governing Body for amateur wrestling in the United States but that neither WD/AAU nor USWF was eligible to be the Group A member of the U.S.O.C. On September 24, 1978, the U.S.O.C. Executive Board voted to sustain its Counselor's advisory opinion.

24. On September 29, 1978, Robert J. Kane, President of the U.S.O.C., wrote to FILA. That letter in part stated:

"You will note that Article V, Section 6(e) of the USOC Constitution imposes an obligation on the USOC to recommend that FILA accept the USWF as a member since the arbitration award upheld its claim for recognition as the national sports governing body for Amateur Wrestling in the United States. We not only recommend that the USWF be admitted to membership to FILA, we urge, as strongly as we can, that this be done as soon as possible so that Amateur Wrestling in the United States can maintain its high level of growth nationally and its success internationally."

On October 17, 1978, FILA's President Ercegan wrote to U.S.O.C. President Kane, advising him that any application by USWF for membership in FILA could only be determined by the FILA Congress which would next be held in Moscow in 1980.

25. On November 8, 1978, President Carter signed into law the Amateur Sports Act of 1978 (Pub.L. No. 95-606; 92 Stat. 3045 et seq.).

26. On November 9, 1978, pursuant to the provisions of 9 U.S.C. §9, USWF filed an action against WD/AAU, in the United States District Court for the Northern District of Illinois, to confirm the arbitration award of September 7, 1978.

27. On November 13, 1978, U.S.O.C. President Kane wrote to FILA President Ercegan urging FILA to take action on USWF's application for FILA membership prior to the FILA Congress meeting scheduled for Moscow in 1980.

28. On December 5, 1978, USWF made application to FILA for membership in that organization. Attached to that application was the affidavit of F. Don Miller, U.S.O.C. Executive Director, which stated in part that by action of the U.S.O.C. Executive Board, USWF "is the National Governing Body for wrestling in the United States, and is so recognized by the United States Olympic Committee.

29. On December 9, 1978, the Executive Board of the U.S.O.C. reconsidered its September 24, 1978 action sustaining its counselor's advisory opinion, repudiated its actions of September 24 in their entirety, and made the WD/AAU the National Governing Body in the United States for amateur wrestling until 1980, or until all appeals to the Courts, to FILA, and to the IOC have been concluded.

30. On December 12, 1978, FILA President Ercegan wrote to U.S.O.C. President Kane. That letter in part stated:

"With all due respect to USOC and the work of USWF, as President it is my duty, above all, to observe the Statute of our Federation as its supreme law. According to the Statute, the Congress is the only body authorized to [act upon USWF's application for FILA membership]."

31. On December 14, 1978, USWF filed this action for declaratory and injunctive relief, and the Court temporarily restrained U.S.O.C. from officially notifying FILA of the December 9, 1978 action taken by the U.S.O.C. Executive Board and from taking certain other steps in reliance on the December 9 action. By consent of the parties, this Court's temporary restraining order remained in effect until the trial of this action on the merits.

32. On February 28, 1979, the United States District Court for the Northern District of Illinois confirmed the arbitration award of the American Arbitration Association of September 7, 1978.

33. Until December 9, 1978, U.S.O.C., pursuant to its constitutional provisions in regard to binding arbitration, did recognize the USWF as the prevailing party in the arbitration proceedings and recommend and supported its application for FILA membership. However, its action of December 9, 1978 was inconsistent with the recognition of USWF as the prevailing party in the arbitration proceedings and such action in part detracted from the full recommendation previously given to FILA.



34. Continued participation by amateur athletes, including but not limited to amateur wrestlers, in international athletic competition, including but not limited to the Pan American Games and Olympic Games, is in the public interest.

35. USWF has no adequate remedy at law.

#### CONCLUSIONS OF LAW

1. The Court has jurisdiction of the parties and of the subject matter of this action, venue is appropriate in this Court, and the Court is empowered to grant the declaratory and injunctive relief hereinafter set forth.

2. The arbitration award of September 7, 1978 is legally binding on the parties as hereinafter set forth.

3. As a result of the arbitral award, the USWF has acquired the status of National Governing body designate for amateur wrestling in the United States and the right to replace the WD/AAU as the National Governing Body for amateur wrestling in the United States upon USWF's election to membership in FILA. The WD/AAU remains, pending election of the USWF to FILA membership, the National Governing Body for amateur wrestling in the United States and is entitled to be the U.S.O.C. Group A member for amateur wrestling.

4. Article V, Section 6(e) of the U.S.O.C. Constitution requires that as a result of the arbitration award in favor of the USWF, the U.S.O.C. must only recommend and support the application of USWF for FILA membership and does not require automatic and immediate recognition by the U.S.O.C. of the USWF as the National Governing Body for amateur wrestling in the United States and its Group A member for amateur wrestling.

5. As a result of the arbitral award, and of the WD/AAU's Group A membership in the U.S.O.C., the USWF is entitled to receive from the WD/AAU full recommendation and support of USWF's application for membership in FILA, and full recommendation and support of the efforts of USWF to become the National Governing Body for amateur wrestling in the United States and the U.S.O.C. Group A member for amateur wrestling.

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED, ADJUDGED and DECREED:

1. The U.S.O.C., its officers, directors, employees and agents, shall be and they hereby are mandatorily enjoined, during the period from the date of entry of Judgment through and including the meeting of the Congress of FILA in 1980, to recommend and support the application of USWF for membership in FILA; provided, however, the U.S.O.C. is authorized to withdraw its prior certification to FILA of the status of the USWF as National Governing Body for amateur wrestling in the United States but shall substitute in lieu thereof its certification to FILA of the status of the USWF as National Governing Body designate for amateur wrestling in the United States and the intention of the U.S.O.C. to recognize the USWF as National Governing Body for amateur wrestling in the United States immediately upon its election to FILA membership.

2. The WD/AAU, its officers, directors, employees and agents, shall be and they hereby are mandatorily enjoined, during the period from the date of entry of Judgment through and including the meeting of the Congress of FILA in 1980, to recommend and support the application of the USWF for membership in FILA, and are restrained and enjoined from interfering with, opposing, voting or arguing against said application of USWF for FILA membership, its efforts to be recognized as the National Governing Body for amateur wrestling in the United States or its efforts to obtain Group A membership in the U.S.O.C.

3. WD/AAU is authorized to continue as the United States member of FILA and as the Group A member for amateur wrestling in the United States until such time as the USWF becomes a member of FILA.

4. The Temporary Restraining Order against U.S.O.C., entered by this Court on December 14, 1978, is dissolved.

5. All claims for declaratory or injunctive relief requested by the parties in their pleadings, other than those granted hereinabove, are denied.

6. The injunction entered hereby may be dissolved after the conclusion of the meeting of the FILA Congress in 1980 upon the showing of good cause on application of any party.

7. Costs of this action shall be borne equally by the parties.

WILLIAM E. STEWART, Judge

Dated: April , 1979

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the within Judgment  
this 18th day of April, 1979, delivered to counsel for Plain-  
and Defendant-Intervenor herein, as follows:

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/s/  
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