

UNITED STATES OLYMPIC COMMITTEE

HIGHTOWER, et al.,)	
)	
Complainants)	
)	
v.)	PRE-HEARING
)	ORDER
)	
US BOWLING CONGRESS,)	
)	
Respondent.)	January 19, 2017

I. BACKGROUND

A. Initiation of the Complaint

1. Wayne Hightower, Donna Hall and Lawrence Digsby (“Complainants”) filed a Complaint on October 29, 2015, against US Bowling Congress (“USBC”) pursuant to Section 220527 of the Ted Stevens Olympic and Amateur Sports Act (the “Act”) and Section 10 of the USOC Bylaws.

B. Preliminary Matters

2. On December 18, 2015, USBC filed a Motion to Dismiss the Complaint. The parties submitted briefs on the Motion and oral argument was heard on March 1, 2016.

3. The Hearing Panel issued an Order on March 8, 2016, reserving decision on the Motion to Dismiss, but ordering the parties to enter into mediation. On October 3, 2016, and October 5, 2016, Complainants and USBC, respectively, informed the Hearing Panel that mediation was unsuccessful.

4. On October 5, 2016, Complainants filed a Motion for Summary Judgment. The parties provided submissions pertaining to the Motion.

5. On December 1, 2016, the Hearing Panel issued an Order ruling on both the Motion to Dismiss and on the Motion for Summary Judgment. The Motion to Dismiss was denied as to Counts I and II and granted as to Counts III, IV and V. The Motion for Summary Judgment was denied.

6. On January 3, 2017, USBC filed an Answer to the Complaint.

C. Readiness for Hearing

7. As the parties were not able to successfully mediate their differences and all preliminary motions have been ruled upon, this matter is ready for a hearing on the merits.

II. DISCOVERY

8. On January 18, 2017, Complainants indicated that they wished to conduct discovery.

9. As a result, the Hearing Panel responded by email communication on January 18, 2017, as follows:

If either party wishes to submit a discovery request on the other party, such request should be submitted by January 25, 2017. As this matter has been proceeding for some time, the parties should know by now what information they seek, so a lengthy discovery period isn't necessary. Documents or other materials in response to a request (or any objection to a request) shall be submitted to the other party by February 1, 2017. The Hearing Panel expects the parties be reasonable in their requests. If a party intends to object to a request, it shall first confer with the other party to determine if the matter can be resolved between the parties. The Hearing Panel will not consider baseless objections to requests nor let discovery become a controversial or drawn out affair. The Hearing Panel expects that the parties will cooperate with each other in resolving any discovery issue.

III. HEARING PROCEDURES

A. Time and Location of Hearing

10. After conferring with the parties as to an agreeable hearing date, the Hearing Panel orders that the hearing shall commence on Thursday, February 23, 2017, at 9:00 a.m. MST and if necessary continue for a second half-day to Friday, February 24, 2017.

11. The hearing will be in-person and held in Colorado Springs, Colorado at the United States Olympic Committee headquarters.

B. Presentation of Case

12. The parties should be prepared to present their cases in full at the hearing.

13. The parties shall each have thirty (30) minutes for opening statements.

14. The parties shall each have five (5) hours to present their case. Witness cross-examination shall be allotted to the time of the party conducting the cross-examination.

15. The parties and their counsel should be cordial to each other at all times during the hearing.

C. Pre-hearing Briefs

16. The parties shall simultaneously provide pre-hearing briefs to the Hearing Panel by February 16, 2017, 5 p.m. MST. Pre-hearing briefs shall be served on the other party when submitted to the Hearing Panel.

17. Pre-hearing briefs shall be no more than 15 pages double spaced in length.

18. The parties shall set forth their positions as to the allegations contained in the Complaint in a precise and straightforward manner that will enable the Hearing Panel

to have a focused understanding of the issues to be decided and the evidence that will be presented.

D. Submission of Exhibits

19. The parties shall have until February 16, 2017, 5:00 p.m. MST to submit any exhibits that they wish the Hearing Panel to consider as evidence. All exhibits submitted shall also be served on the other party on February 16, 2017. Exhibits shall be submitted electronically, unless not possible.

20. On the day of the hearing, the parties shall provide five hard copies of the exhibits in appropriately marked binders for use at the hearing.

21. Exhibits shall be marked in such a way as to differentiate between Complainants' exhibits and USBC's exhibits. The parties shall confer prior to submission of the exhibits to ensure that such a system is utilized.

22. Prior to the hearing, each party shall determine if there is an objection to an exhibit submitted by the other party. If there is no objection to an exhibit, then it will be admitted at the commencement of the hearing to save time and provide for an orderly flow of evidence. If a party has an objection to an exhibit, the party shall so notify the Hearing Panel by February 20, 2017, 5:00 p.m. MST.

23. The Hearing Panel may request documents for consideration not submitted as exhibits by the parties, as it considers appropriate.

E. Witness Testimony

24. Each Party shall submit a list of its witnesses to the Hearing Panel by February 20, 2017, 5 p.m. MST. Witness lists shall also be served on the other party on February 20, 2017.

25. If a party intends on calling an expert witness, the name of the witness, a biographical background, and a brief description of the expert's testimony shall be submitted to the Hearing Panel by February 20, 2017, 5 p.m. MST. This information shall also be served on the other party on February 20, 2017.

26. Witness testimony may be submitted through live testimony or through written sworn affidavit.

27. If requested by a party and approved by the Hearing Panel, a witness may testify telephonically.

28. If testimony is submitted through affidavit, such affidavits shall be submitted to the Hearing Panel by February 20, 2017, 5 p.m. MST. Testimony affidavits shall also be served on the other party on February 20, 2017.

29. Any party who submits witness testimony by affidavit shall make the witness available at the hearing for cross-examination by the other party.

30. The Hearing Panel may call witnesses not identified or called by the parties, as it considers appropriate.

F. Transcript of Hearing

31. If a party desires that the hearing be recorded by a stenographer, the party making such request shall notify the Hearing Panel by February 20, 2017, 5 p.m. MST. The party requesting that the hearing be recorded shall arrange for the stenographer.

32. The party requesting that the hearing be recorded shall pay for the cost of the stenographer, unless the other party also wants the hearing recorded, then the cost of the stenographer shall be equally divided.

33. A party requesting a transcript of the hearing shall pay for the cost of the transcript. A transcript ordered by a party, shall also be made available to the Hearing Panel.

G. Submission of Materials

34. All communications to the Hearing Panel, including prehearing briefs, all exhibits and all affidavit testimony shall be sent electronically to the USOC Legal Division, addressed to Lucy Denley (lucy.denley@usoc.org). Lucy Denley shall distribute all such communications, pre-hearing briefs, exhibits and affidavit testimony to the Hearing Panel. As set forth in paragraph 20, hard copies of the exhibits shall also be provided at the hearing.

35. With regard to any materials or documents submitted for the hearing, the parties shall send the actual document, and not just provide a web address for locating the document.

IV. ORDER

36. It is so ordered.

Dated this 19th day of January 2017.



Bill Marolt, Chair

Glen Schorr, Panel Member
Han Xiao, Panel Member