

UNITED STATES OLYMPIC COMMITTEE

BERNARD ROBINSON)	
)	
Complainant, and)	
)	
BRUCE C.K.W. HARRIS, BARBARA)	
WAKEFIELD, VALERIE LONG, ANNE G.)	
CHASE, LEON PRESTON AND)	
JEANNETTE WOODARD)	
)	
Complainants)	
)	
v.)	REPORT, DECISION
)	AND
)	RECOMMENDATION
USA TAEKWONDO)	
)	
Respondent)	February 27, 2012

I. SUMMARY

1. This matter results from two complaints filed against USA Taekwondo (“USAT”) pursuant to Section 220527 of the Ted Stevens Olympic and Amateur Sports Act (the “Act”) and Section 10 of the USOC Bylaws.

2. Section 220527 of the Act and Section 10 of the USOC Bylaws collectively provide that a person who belongs to a National Governing Body (“NGB”) may seek to compel the NGB to comply with the requirements of Sections 220522 - 220525 of the Act and Section 8 of the USOC Bylaws. Those provisions set forth the obligations and requirements of an NGB.

3. In accordance with the procedures set forth in the Act and USOC Bylaws, the Hearing Panel conducted a hearing on this matter on January 5 and 6, 2012.

4. By Summary Decision issued on January 10, 2012, the Hearing Panel found that USAT was not meeting its responsibilities as an NGB in the following areas:

- Financial well-being.
- Managerial capability.
- Board competency and effectiveness.
- Athlete representation.
- Grievance procedures.
- Communications with members and transparency of activities.

5. Subsequent to the Summary Decision, the Parties provided the Hearing Panel with their positions on the remedy to be imposed upon USAT for its non-compliance.

6. Pursuant to Section 10.18 of the USOC Bylaws the Hearing Panel is required to issue a reasoned decision of its findings and make a recommendation to the USOC Board of Directors regarding the action to be taken with regard to an NGB that is not meeting its NGB responsibilities.

7. This Report, Decision and Recommendation provides a report of this proceeding and serves as the Hearing Panel's reasoned decision. It also serves as the Hearing Panel's recommendation to the USOC Board of Directors.

8. After due consideration, the Hearing Panel recommends that the USOC Board place USAT on probation for an initial period of six (6) months. The Hearing Panel believes that this will allow USAT to rectify its shortcomings and is in the best interest of the sport of Taekwondo. If after six (6) months USAT is not yet in compliance, the probationary period may be extended pursuant to Section 220527 of the Act and Section 10.20 of the USOC Bylaws, provided that USAT shows that it is making sufficient progress in addressing its compliance issues.

9. As part of its recommendation the Hearing Panel has determined that an Advisory Committee be formed to assist USAT moving forward. Further, the Hearing Panel has set forth eleven specific areas that USAT needs to address.

10. Pursuant to Section 10.20 of the USOC Bylaws, the Hearing Panel will retain continuing jurisdiction over this matter and after six (6) months report back to the USOC Board on USAT's progress.

II. THE PARTIES

A. Complainants

11. Bernard Robinson ("Robinson") is a member of USAT. Commencing in 2008 he also served as a member of, and later as chair of, USAT's Nominating and Governance Committee.

12. Bruce C.K.W. Harris, Barbara Wakefield, Valerie Long, Anne G. Chase, Leon Preston and Jeannette Woodard (collectively referred to as the "Harris Complainants") are members of USAT. They also are members of a group of referees known as the Taekwondo Referees United for Excellence.

B. Respondent

13. USAT is the NGB for the sport of Taekwondo in the United States, as recognized by the United States Olympic Committee ("USOC") pursuant to Section 220521 of the Act and Section 8 of the USOC Bylaws.

C. Legal Counsel

14. The Parties were represented by able legal counsel throughout this proceeding. USAT was represented by John Collins of the law firm Collins and Collins. Bernard Robinson

was represented by Edward Williams of the law firm Stewart Occhipinti. The Harris Complainants were represented by Stephen A. Hess of the law firm Sherman and Howard.

III. COMMENCEMENT OF PROCEEDING

15. On August 5, 2011, Robinson filed a Complaint against USAT. Robinson amended his Complaint on August 30, 2011.

16. On August 10, 2011, the Harris Complainants filed a Complaint against USAT. The Harris Complainants amended their Complaint on August 30, 2011.

17. The Complaints filed by Robinson and the Harris Complainants made similar allegations. First, they alleged that USAT was not meeting its obligations and responsibilities as an NGB as required by the Act and USOC Bylaws. Second, they alleged that USAT's election process for its Board of Directors, scheduled for December of 2010, was flawed and never conducted, in violation of USAT's Bylaws and the Act.

IV. PANEL COMPOSITION

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

- Susanne Lyons, Chair – USOC Board of Directors
- Sarah Konrad, Panel Member – USOC Athletes' Advisory Council, US Biathlon
- Glenn Merry, Panel Member – USOC National Governing Bodies Council, USRowing

19. The Hearing Panel made disclosures to the Parties concerning conflicts. No Party objected to the appointment of the Hearing Panel.

V. JURISDICTION

20. The Hearing Panel has authority to hear the two (2) Complaints pursuant to Section 220527 of the Act and Section 10 of the USOC Bylaws.

VI. PROCEDURAL BACKGROUND

A. Consolidation

21. Since the two (2) Complaints contained similar allegations, the Hearing Panel requested input from the Parties as to whether or not the Complaints should be consolidated. All Parties agreed on consolidation.

22. Accordingly, the Hearing Panel consolidated the two (2) Complaints by Order of September 1, 2011.

B. Motion to Dismiss

23. On September 17, 2011, USAT filed a Motion to Dismiss the Complaints, based on two grounds.

24. The first basis for the Motion was that the Complainants had not exhausted their administrative remedies. Complainants cited Section 220527(b) of the Act and Section 10.11 of the USOC Bylaws, which provide that a complainant may file a complaint only after exhausting all available remedies with the NGB for correcting the alleged deficiencies. The Hearing Panel determined that Complainants had exhausted their administrative remedies.

25. The second basis for the Motion concerned various arguments pertaining to standing and the authority of the Hearing Panel. The Hearing Panel determined that such arguments were without merit.

26. Accordingly, by Order of September 16, 2011, the Hearing Panel denied USAT's Motion to Dismiss.

C. Answer

27. USAT denied all claims alleged by Complainants.

D. Mediation

28. USAT requested that this matter be referred to a mediator to determine if the Parties could resolve their differences. Section 10.8 of the USOC Bylaws provides that upon the request of a party the Hearing Panel may order mediation. The Complainants concurred with the mediation request.

29. After hearing from the Parties on various mediation procedures and issues, including who should serve as mediator, the Hearing Panel by Order of September 16, 2011, ordered that the Parties enter into mediation. The Order provided that the first priority of the mediation should be to attempt to resolve the issues surrounding USAT's Board election, which had not been held. The Order also provided that, in addition to the Parties, individuals who had filed administrative grievances with USAT concerning the Board election and individuals who were candidates for the Board could also participate in the mediation. The Order further provided that the Parties could attempt to resolve the compliance issues raised in the Complaints.

30. Pursuant to Section 10.8 of the USOC Bylaws an independent mediator was appointed by the USOC CEO. The mediator attempted to assist the Parties and other participants in resolving the election issue, as well as assist the Parties in resolving the compliance issues. An in-person mediation session was held on November 11, 2011. Additionally, the mediator had discussions with the Parties and other participants prior to and after the in-person session.

31. Mediation efforts did not prove successful.

E. Pre-Hearing Motions

32. USAT made two (2) pre-hearing motions, both filed on December 15, 2011. The first was a Motion for Agreed Resolution in which USAT requested that the Hearing Panel adopt its settlement proposal offered during mediation and ensuing settlement discussions. This proposal had been rejected by Complainants. The second was a Motion for Joinder to add Herb Perez as a party to the proceeding.¹ Complainants opposed both motions.

33. By Order of December 20, 2011, the Hearing Panel denied both motions.

34. Then on December 28, 2011, Herb Perez filed a Motion to Intervene as a party. Complainants opposed the motion.

35. The Hearing Panel notified Mr. Perez and the Parties on January 3, 2012, that the motion was denied. However, the Panel indicated that it would allow Mr. Perez to appear as a witness at the hearing, if he was so inclined.² The Hearing Panel also allowed Mr. Perez to have his legal counsel present during his testimony and to ask questions of Mr. Perez during his testimony.

F. Discovery

36. All Parties made discovery requests and conducted discovery during this proceeding. The Hearing Panel ruled on all discovery motions and directed that the Parties produce various documents.

37. Additionally, the Hearing Panel requested certain documents from USAT that the Hearing Panel felt were relevant to the issues raised in this proceeding.

¹ Mr. Perez was a candidate for a USAT Board seat.

² Mr. Perez did appear and testify at the hearing.

VII. CLAIMS AND RESPONSES

A. USAT Financial Capability

38. Complainants allege that USAT is in dire financial straits and may not be able to continue meeting its financial obligations as an NGB. Further, Complainants assert that USAT does not possess the financial controls and accountability to operate effectively as an NGB.

39. USAT counters that USAT has the financial capabilities to plan and execute its obligations. Further, USAT states that its current financial condition is due to a variety of factors, including the economy and the lack of payment of several large receivables. USAT asserts that it has implemented a number of cost control measures, including cutting staff. Further, USAT indicates that it intends to increase membership revenue by increasing membership dues. USAT also states that progress has been made in addressing shortcomings connected with its financial controls. Additionally, USAT indicates that it has implemented a new budgeting process for 2012, which USAT believes will increase accountability and provide for better management of USAT's finances.

B. Managerial Capability

40. Complainants allege that USAT was forced to acknowledge shortcomings in its upper management after release of the July 20, 2011, USOC Audit Report. Complainants state that as a result, USAT terminated its Chief Executive Officer ("CEO") in August of 2011. Then Complainants assert that USAT, when it was in the middle of a leadership and financial crises, terminated its Chief Financial Officer ("CFO") in September of 2011 without reason, leaving the organization financially rudderless. Complainants also assert that USAT failed in conducting its affairs in a businesslike manner and that it was not open and truthful in communications with its

members. Complainants further allege that USAT engaged in vendettas against members, which was counterproductive and a waste of resources.

41. USAT responds that it has brought in an experienced sport executive to serve as Interim CEO. USAT states that this person has leadership experience in the Olympic movement and that this leadership change will help stabilize its operations and establish a foundation of growth for the future. USAT states that it also hired a Comptroller in October of 2011 after termination of its CFO.

C. Board Competency and Effectiveness

42. Complainants assert that the USAT Board has operated without filling vacant or expired Board seats since December of 2010, in violation of its Bylaws. Also, Complainants contend that those Board members who owe their livelihood to running Taekwondo clubs have a financial interest in serving on the Board, and do not act with altruistic purposes. Further, Complainants charge that the Board has not provided the oversight or leadership required to effectively deal with USAT's management and financial issues. Finally, Complainants allege that the Board lacked transparency in its actions by continually holding meetings in executive session.

43. USAT counters that its Board members are committed individuals who meet on a regular basis and who serve with the best interests of the organization in mind. USAT further asserts that its Board members have risen to the challenge in dealing with USAT's recent managerial and financial issues. Further, USAT asserts that it is committed to holding Board elections, but that it has been thwarted from doing so by the filing of complaints pertaining to the election process.

D. Athlete Representation

44. Complainants allege that USAT failed to fulfill its obligation of providing for twenty (20) percent athlete representation on its Board. First, Complainants assert that USAT's Board suspended the USOC AAC athlete member of the Board in June of 2011 for an alleged conflict of interest. Complainants further state that USAT left the seat vacant, never taking action to either resolve the alleged conflict or filling the Board seat with an alternate athlete representative. Second, Complainants point out that the USAT Board created an Office of the CEO/Oversight Committee, which assumed management of USAT's daily affairs when the CEO was terminated and which also acted on the Board's behalf. Complainants allege that the Oversight Committee took action without the athlete's participation or providing the athlete a vote.

45. USAT responds that the alternate USOC AAC athlete representative is now seated on the Board and that the athlete representative on the Oversight Committee was involved in the Committee's affairs.

E. Grievance Procedures

46. Complainants allege that USAT has failed to proceed or hold hearings on administrative complaints filed pursuant to its grievance procedures. Complainants state that rather than complying with its grievance resolution process, USAT has abdicated its responsibility and blamed others for the failure of its inaction. Moreover, Complainants assert that USAT publicly castigated those who filed complaints and accused them of disrupting the governance of Taekwondo. Complainants point to the two (2) administrative complaints that they filed against USAT as conclusive evidence of USAT's unwillingness to proceed on any complaint that calls USAT's actions into question.

47. Additionally, the Harris Complainants point out that when they jointly filed their administrative complaint with USAT, USAT management attempted to quash the filing by demanding that each Complainant submit a \$250.00 filing fee. As a result, Complainants were required to submit a filing fee of \$1,500.00, which they did, in order to have their complaint forwarded to USAT's Judicial Committee. Accordingly, the Harris Complainants request that this Hearing Panel order the return of \$1,250.00, which they claim was inappropriately attained.³

48. USAT responds that administrative complaints are handled by its Judicial Committee, which USAT asserts has heard and resolved numerous grievances over the past several years. As evidence of this, USAT points to two (2) hearings held to terminate the membership of two (2) individuals who USAT believed were disruptive to USAT's affairs. USAT also indicates that although a number of grievances were filed relating to its efforts to hold Board elections in 2010, it had attempted to consolidate these filings in order to expedite the process. USAT asserts that, unfortunately, this effort was foiled due to the actions of the Complainants.

F. Communications with Members and Transparency of Activities

49. Complainants contend that USAT operates under a veil of secrecy, providing limited information to its membership. As examples, Complainants point out that USAT failed to post its Board Minutes, its IRS 990 Form and audit information in a timely fashion on its website and that the USAT Board commonly moves into executive session to discuss normal USAT business to keep matters from the purview of USAT members. Further, Complainants allege that at USAT's Annual Assembly, membership was led to believe that USAT was on sound financial footing, when in fact the opposite was true.

³ This request is addressed later in Paragraph 140.

50. USAT responds that it is an open organization, that its website is updated in a timely manner with financial information and that it publishes its minutes on its website. USAT also contends that if matters come before it which are of a confidential nature, disclosure of such information to the entire membership could cause harm to the organization.

G. Athlete Success in International Competitions

51. Complainants allege that there has been a steady deterioration in athlete development programs, with the result there is no longer an athlete pipeline leading to international success. Complainants assert that USAT athletes did not fare well at the 2011 World Championships and that qualification for the 2012 London Olympic Games have not met expectations. Further, Complainants assert that in prior years athlete success in international competitions was primarily due to the athletic accomplishments of one (1) family and not due to the efforts of USAT.

52. USAT responds that the US is one of the top Taekwondo nations in the world, citing past Olympic medal results. USAT also asserts that it has a well thought out high performance plan and that it has implemented that plan to provide for the continuing success of its athletes.

H. Develop Interest and Participation in the Sport

53. Complainants allege that USAT's membership has declined significantly over the past ten (10) years and that it has failed to engender interest in USAT and its activities by individuals who participate in the sport.

54. USAT responds that its individual and club membership has increased in each of the past three (3) years. USAT states that it has undertaken a variety of programs aimed at increasing its grassroots participation, including running coach and referee education programs.

USAT also points out that participation in competitions run by USAT has increased over the past four (4) years.

VIII. BURDEN OF PROOF

55. Section 10.17 of the USOC Bylaws provides that the Complainants have the burden of proof. Complainants are required to establish by a preponderance of the evidence that USAT does not meet the requirements of the Act and USOC Bylaws.

IX. HEARING

56. On January 5 and 6, 2012, the Hearing Panel held a hearing on Complainants' claims. The hearing was conducted for two (2) full days.

57. Prior to commencement of the hearing the Parties submitted pre-hearing briefs. The parties also provided opening and closing statements and gave arguments on various issues that arose during the hearing. Additionally the Parties submitted numerous exhibits as documentary evidence. Further, the Hearing Panel heard from the following witnesses:

- Bernard Robinson – Complainant.
- Bruce Harris – Complainant.
- Anne Chase – Complainant.
- Larry Cain – Member of USAT and past chair of the USAT Nominating and Governance Committee.
- Kim M. Sol – Member of USAT and an international Taekwondo referee.
- Jason Han – Member of USAT, USAT AAC member and USAT Board member (athlete representative).
- Eric Laurin – Member of USAT, USOC AAC member and USAT Board member (athlete representative).
- Kevin Padilla – Member of USAT, USAT Board member (coach representative) and Chair of the Board.
- Marty Mankamyer – Member of USAT, USAT Board member (independent representative).
- Eric Parthen – USAT Interim CEO.
- Amanda Rubin – USAT Membership Services Manager.
- Brian Lawrence – Past Chief Financial Officer of USAT.
- Herb Perez – Member of USAT and candidate for USAT Board seat.
- Debra Yoshimura – Managing Director, USOC Audit Division.

- Rachel Isaacs – Team Leader, USOC Sport Performance Division.

Each party was afforded the opportunity to cross-examine the witnesses.

58. The rules of evidence were not strictly enforced and rules of evidence generally accepted in administrative proceedings were applied.

X. FINDINGS

A. General

59. The evidence presented makes it quite clear that USAT is deficient as an NGB in a number of areas. It is facing a number of financial challenges that place the organization at severe risk. USAT has undergone a period of uncertainty in terms of its Board structure. It has not filled vacant and expired Board seats. Its leadership under the Board and the previous CEO has been lacking and it has lost the trust of many of its members.

60. It also became evident during this proceeding that the sport of Taekwondo is fraught with political infighting and abounds with personal agendas. Members need to learn how to trust each other, to get along instead of treating others as adversaries, to listen to other's views without taking offense, to take a positive view towards building the organization and to work together. Too often individuals just look for ways to attack the organization and criticize its members. Being a member of USAT and participating in its governance should not be a combative sport.

61. Also, it appears that too often individuals use their involvement in USAT to enhance their personal financial gain. They lose sight of their obligation to the organization and instead focus on how their stature within USAT can enhance their club and thus their own profits. Their motivation is wrong and it creates inherent conflict and mistrust.

B. USAT Financial Capability

62. Section 220522(a)(2) of the Act provides that an NGB must have the financial capability to execute its obligations as an NGB. Section 8.7(k) of the USOC Bylaws states that an NGB must seek to generate revenue, in addition to any resources provided by the USOC, sufficient to achieve financial sustainability. Additionally Section 8.7(m) provides that an NGB adopt a budget and maintain accurate accounting records in accordance with generally accepted accounting principles.

63. Taekwondo does not have sufficient assets to meet its current financial obligations. According to the November 30, 2011, unaudited financial statements, Taekwondo has more liabilities than assets. Eighty-two (82) percent of Taekwondo's accounts receivables are outstanding more than ninety (90) days and collection is questionable on several very large items.

64. USAT had negative net assets in nine (9) of the previous ten (10) years (2001 – 2010).

65. USAT's external auditing firm, in its opinion letter accompanying USAT's 2010 audit, issued a "going concern" statement questioning USAT's ability to carry out its existing activities and commitments. This is not a common finding.

66. The Board did not adopt budgets in a timely fashion for 2009, 2010, and 2011. USAT's 2009 budget was adopted by the Board in August of 2009. There is no record of the Board adopting the 2010 budget. The 2011 budget was adopted in June of 2011. USAT effectively operated without proper budget controls during these years.

67. Taekwondo lacks an experienced accountant recording financial transactions and preparing financial statements. As of November 30, 2011, the current part-time Comptroller,

who had no practical accounting experience, had not prepared bank reconciliations or recorded expenses charged to credit cards for the previous three (3) months. As a result, current financial statements may not be accurate.

68. USAT's Financial Policies and Procedures manual has not been updated and is not consistent with current practices. Cash handling at events is not appropriately managed and funds received are not consistently deposited and recorded.

69. Taekwondo currently owes the USOC \$154,876.00 for disallowed costs and training center usage. More than \$50,000.00 of this amount is past due more than one hundred and fifty (150) days.

70. The Hearing Panel finds that USAT has failed to meet its obligations as an NGB as required by Section 220522(a)(2) of the Act and Sections 8.7(k) and (m) of the USOC Bylaws.

C. Managerial Capability

71. Section 220522(a)(2) of the Act provides that an NGB must have the managerial capability to plan and execute its obligations as an NGB, which includes having competent and effective staff leadership. Further, Section 7.2 of USAT's Bylaws provides that the Board shall diligently oversee the operation of the CEO in his or her management of USAT.

72. The USAT Board did not effectively oversee its staff leadership. Its CEO failed to provide the Board with audit results and other financial information crucial for the Board to make reasoned decisions concerning USAT's financial well-being. The CEO became the focus of controversy and lost the ability to conduct USAT's affairs in a businesslike manner, while retaining the trust of the Board and membership. Although the CEO ultimately was terminated

from the organization in July of 2011, prior to then the Board failed to hold the CEO accountable in a meaningful way.

73. The Board further terminated its CFO, hiring a Comptroller for cost savings. Although such action might have been justified on those grounds, it placed USAT in a precarious position relative to addressing its severe financial situation and limited USAT's ability to address the many USOC audit recommendations.

74. During 2010 and continuing until an interim CEO was hired in 2011, management of USAT's affairs was not at a level of competency necessary for the running of a successful NGB.

75. The Hearing Panel finds that USAT has failed to meet its obligations as an NGB as required by Section 220522(a)(2) of the Act.

D. Board Competency and Effectiveness

76. Section 220522(a)(2) of the Act provides that an NGB must have the managerial capabilities to plan and execute its obligations as an NGB, which includes the competency and effectiveness of the NGB's Board. Also, Section 7.2 of USAT's Bylaws provide the Board shall oversee the general management of USAT and its affairs. Section 7.2 goes on to specifically provide that the Board shall oversee a budget, approve financial strategies and long-range financial planning, review and approve financial statements, and review and approve audit and financial control policies. Additionally, Section 7 of USAT's Bylaws sets forth the Board composition and an election process for filling Board seats.

77. The Board did not fulfill its responsibilities in these areas.

78. First, the Board did not fulfill its responsibility of financial oversight. An October 2008 USOC Audit report listed fifteen (15) recommendations, eleven (11) of which were never

implemented by USAT. The July 20, 2011, USOC Audit report listed some thirty-three (33) findings of concern, many of which were quite serious. Most are still outstanding.

79. It appears that the Board never demanded, nor was it provided, with the USOC's Audit reports by its CEO. It was not until the USOC called a meeting with USAT to discuss the July report that Board members became aware of either the October 2008 report or July 2011 report.

80. Additionally, the Board either was not informed or did not grasp the grave financial situation that USAT faced, and continues to face. It appears that until recently the Board was not even aware of the "going concern" statement issued by USAT's external auditing firm in conjunction with USAT's 2010 external audit. The Board did not give USAT's budgeting process and long-range financial planning the priority necessary for an organization that was on the brink of having to close its doors because of its financial situation.

81. Second, the Board did not fulfill its responsibility of maintaining a functioning Board through a proper and timely election process. USAT failed to hold elections as required, resulting in vacant Board seats not being filled or in individuals continuing to serve even though their terms had expired.

82. Much of the controversy revolving around USAT's failed Board elections were USAT's own doing. In the midst of the election process USAT attempted to change its Board composition, doing away with grassroots seats and replacing them with two (2) classes of club seats. Also, USAT changed the requirements for individuals wishing to run for coach or referee seats. These changes caused confusion and controversy, with allegations of manipulation of the process and favoritism towards certain candidates. USAT cannot blame its failure to proceed with elections on potential candidates who filed complaints concerning the election process.

83. Further, when the Nominating and Governance Committee submitted its slate of candidates, a controversy ensued between the Board and the Committee regarding the methods utilized by and the diligence of the Committee. Although no candidates were ever interviewed or vetted, the chair of the Committee claimed that he was only given twelve (12) days, from the time he was given candidate names, in which to complete the entire nomination process. As a result, the Board refused to accept the nominations and did away with the Committee, throwing the entire election process into more turmoil.

84. There is a way to proceed with changes to Board composition. It should be a well thought out process, explained to members, and which gives ample notice to potential candidates. USAT failed in this regard.

85. The Hearing Panel finds that USAT has failed to meet its obligations as an NGB as required by Section 220522(a)(2) of the Act.

E. Athlete Representation

86. Section 220522(a)(10) of the Act provides that elite athletes must have representation on and comprise at least twenty (20) percent of the voting power on an NGB's Board of Directors. Further, Section 8.8 of the USOC Bylaws sets forth certain standards defining this representation.

87. USAT's Board suspended the USOC AAC representative to the Board in June of 2011 because of an allegation that the athlete had a conflict. It did not provide the athlete representative with a hearing nor did it take immediate steps to replace the athlete representative. Rather, it conducted its business with only one (1) athlete Board member. Although the alternate USOC AAC representative was eventually invited to participate as a Board member, this did not

happen until recently. Thus, USAT did not fulfill its requirement to have twenty (20) per cent athlete representation on its Board.

88. Also, USAT's Office of CEO/Oversight Committee, which was created by the Board and acted in the Board's place, although having an athlete representative, conducted business without inclusion of the athlete. This occurred on at least two (2) occasions. First, the chair of the Oversight Committee, with concurrence of some members of the Committee, relieved the CFO of his duties and hired a Comptroller without full participation of the athlete representative or without providing the athlete an opportunity to vote. Second, the chair of the Oversight Committee, having asked some members of the Committee for their opinion and believing that she had a consensus, hired an Interim CEO without including the athlete representative in the full discussion of the hiring process or without conducting a vote. Although the athlete representative made himself available, and was active in voicing his opinions regarding the CFO release, Comptroller hire and interim CEO hire, the Oversight Committee proceeded in such a way as to contravene the twenty percent requirement of full athlete representation in the Committee's business.

89. These actions by the Oversight Committee were significant decisions affecting the management of USAT. These decisions should not have been taken without the athlete's participation and vote and shows a lack of sensitivity to the importance of including athletes in its affairs.

90. The Hearing Panel finds that USAT has failed to meet its obligations as an NGB as required by Section 220522(a)(10) of the Act and Section 8.8 of the USOC Bylaws.

F. Grievance Procedures

91. Section 220522(a)(11) of the Act provides that an NGB must provide procedures for the prompt and equitable resolution of grievances of its members.

92. USAT's complaint procedures are set forth in Section 15 of its Bylaws. These procedures provide for the administration and prompt hearing of grievances filed with USAT. However, having procedures is not enough. The procedures must be followed and implemented in a manner that allows for the parties to have their matters heard. The procedures must also be administered fairly.

93. Although at least seven (7) grievances were filed with USAT concerning its 2010 Board election, including the two (2) complaints that gave rise to this proceeding,⁴ USAT's Judicial Committee never heard the grievances. Further, it appears that USAT's management may have involved itself in the affairs of the Judicial Committee, giving rise to actual or perceived unfairness and undue influence over the activities of the Committee and its hearing panels.

94. The Hearing Panel finds that USAT has failed to meet its obligations as an NGB as required by Section 220522(a)(11) of the Act.

G. Communications with Members and Transparency of Activities

95. Section 220524 of the Act provides that an NGB shall be responsible to the persons and amateur sports organizations it represents. Further, Section 8.7(1) provides that an NGB shall be financially and operationally transparent and accountable to its members.

⁴ A detailed analysis of the failure of USAT to proceed with the grievances filed by the Complainants is set out in the Hearing Panel's Decision and Order of September 16, 2011.

96. USAT was lacking in communicating with its members. Financial information was not communicated to members in a forthright or timely manner.

97. Board meetings were conducted for the most part in executive session, shielding members from minutes that explained the Board's activities. Board members were warned not to discuss Board activities with other members of the organization. This conduct engendered a feeling of secrecy by the Board among USAT's membership.

98. In general, the Board and USAT management became insular in its activities and failed to adequately communicate its agendas, decisions and activities with those it served.

99. The Hearing Panel finds that USAT has failed to meet its obligations as an NGB as required by Section 220524 of the Act and Section 8.7(l) of the USOC Bylaws.

H. Athlete Success in International Competitions

100. Section 220523 of the Act provides that an NGB has the authority and responsibility to recommend to the USOC athletes for the Olympic and Pan American Games and designate athletes to compete in other international competitions. Section 8.7(i) of the USOC Bylaws provides that an NGB shall establish and implement a plan for successfully training Olympic athletes. Furthermore, Section 8.7(f), (g) and (h) provide that an NGB shall establish procedures for the selection of athletes for the Olympic and Pan American Games, conduct trials or another selection process to select athletes and to recommend to the USOC athletes for participation in the Olympic and Pan American Games. Also, Section 8.7(c) provides that and NGB shall develop a strategic plan that is capable of supporting athletes in achieving sustained competitive excellence and that will grow the sport.

101. USAT's athletes have been successful internationally. The question remains whether or not the next generation of athletes can continue with this success. Challenges may

exist going forward, but there is no indication that USAT failed in sending competitive athletes to the 2011 Pan American Games or will fail in its efforts for the 2012 London Olympic Games.

102. Further, USAT has developed and by all accounts has implemented a sound strategic plan going forward.

103. The Hearing Panel finds that the Complainants have not met their burden of proof as is required by Section 10.17 of the USOC Bylaws.

I. Develop Interest and Participation in the Sport

104. Section 220524 of the Act provides that an NGB shall develop interest and participation in its sport.

105. USAT has a sizeable membership base. It conducts a number of competitions aimed at both elite and less experienced athletes. USAT has expanded its involvement in educational opportunities for coaches and referees. Although USAT could increase its efforts, it has attempted to develop opportunities for individuals to get involved in the sport.

106. The Hearing Panel finds that the Complainants have not met their burden of proof as is required by Section 10.17 of the USOC Bylaws.

XI. RECOMMENDATION

A. General

107. Complainants should be given their due in bringing these matters forward. It was not a comfortable thing to do. It put them at odds with USAT and placed them in a position of being viewed as intent on bringing harm, instead of advocating for positive change.

108. In the same light, it became apparent during this proceeding that USAT desires to move forward, acknowledging that it has shortcomings. USAT has indicated its willingness to

put the past behind it, to engage in an evaluation process, to seek guidance and to strengthen its organizational structure and management capabilities.

109. USAT's future could be very bright. Taekwondo is widely practiced in the United States. There is a base of willing individuals who believe in the sport and a cadre of athletes who want nothing, but to compete at their best. It has a vibrant club system that forms the basis for its grassroots efforts. Many of its athletes have been successful on the international scene. With proper support and coaching, future athletes should be able to compete internationally with continued success.

110. Further, after the Hearing Panel issued its Summary Decision, all Parties were given an opportunity to comment on the remedy to be imposed upon USAT as a result of its non-compliance. All Parties responded on January 24, 2012. In their response, the Complainants did not ask for revocation of USAT's NGB status, but instead put forward a number of measures that they recommend USAT adopt going forward. Likewise, USAT responded with a number of changes that it indicated its willingness to implement.

111. It is because of this, and the willingness of the current leadership to bring about change, that the Hearing Panel makes the following recommendations, including placing USAT on probation. It is the sincere hope of the Hearing Panel that USAT can become the successful organization that it has the potential of becoming.

112. In light of the Hearing Panel's recommendation to place USAT on probation, the Hearing Panel will retain continuing jurisdiction over this matter. Accordingly, USAT shall be accountable to the Hearing Panel during the probationary period. Additionally, the Hearing Panel shall monitor USAT's compliance efforts and make a further report to the USOC Board after six (6) months.

B. USAT Advisory Committee

113. A five (5) member USAT Advisory Committee (“Advisory Committee”) shall be appointed by the Hearing Panel as soon as possible. The Advisory Committee shall be comprised of individuals as follows:

- A member of the Hearing Panel.
- A member of the USAT Board.
- A person with financial experience.
- A person with business experience.
- An athlete.

114. The Advisory Committee shall:

- Provide advice to the USAT Board.
- Assist and offer advice to USAT in conducting a long range review of USAT’s organizational structure and Board composition.
- Ensure that the Board election process is conducted fairly.
- Provide guidance to the interim CEO (or CEO) in fulfilling his or her management responsibilities.
- Provide guidance to the CFO in fulfilling his or her financial responsibilities.
- Provide guidance concerning USAT’s grievance process and the handling of outstanding complaints.
- Do whatever else the Advisory Committee deems necessary in assisting USAT in fulfilling its mission and succeeding as an organization.
- Report to the Hearing Panel on its activities and the progress of USAT in fulfilling its obligations and requirements as an NGB.

115. The USAT Board and staff shall:

- Work with the Advisory Committee on long-term objectives and goals.
- Utilize the Advisory Committee’s expertise and advice on issues relative to USAT’s general health and well-being.
- Keep the Advisory Committee informed of USAT’s activities. As part of keeping the Advisory Committee informed, the CEO shall meet in person or by phone with the Advisory Committee Chair on a weekly basis, or more often if needed. Also, Advisory Committee members shall be invited to attend and participate in Board meetings and informational calls. The Board shall also provide copies of its Board minutes to the Advisory Committee.
- Report to the Advisory Committee on USAT initiatives and agendas.
- Adhere to recommendations of the Advisory Committee.

C. Repopulating USAT's Board of Directors

116. USAT shall hold elections to repopulate its Board of Directors. This Board shall be a Transitional Board that will function until December 31, 2012, or until a new Board has been seated.

117. USAT's Bylaws currently provide for a ten (10) member Board, comprised as follows:

- 3 Independent Directors (one seat expired and one seat vacant).
- 2 Athlete Directors.⁵
- 2 Club Directors (the Club Director seats were never filled) (previously these were Grass Roots seats – one seat is vacant and one seat is expired).
- 1 Referee Director (vacant).
- 1 Coach Director (expired).
- 1 Affiliate Organization Director.⁶

118. Elections for vacant or expired Board seats will be held for the following positions:

- 1 Coach Director.
- 1 Referee Director.⁷
- 2 Club Directors.⁸
- 2 Independent Directors.

⁵ One of these seats is currently being filled by the USOC Alternate AAC member until the USOC AAC member's status is determined.

⁶ Contrary to USAT Bylaw provision 7.6.f., the Affiliate Organization Director seat is currently shared by two (2) individuals each having one-half (1/2) vote.

⁷ USAT Bylaw 7.6.d. provides among other things that all candidates for referee seats (i) must obtain 25 signatures of support from USAT member referees and (ii) must have worked at least two USAT operated events in each of the two years preceding the election. These requirements were contested by Complainants during this proceeding. USAT in its submission of January 24, 2012, states that its current Board will amend its Bylaws to eliminate these two (2) requirements. USAT shall fulfill this commitment.

⁸ USAT Bylaw 7.6.c provides among other things that there shall be a "small club" seat (clubs with at least 15, but not more than 35 USAT registered members) and a "large club" seat (clubs with more than 35 registered USAT members). Considerable controversy ensued regarding the application of this requirement. USAT in its submission of January 24, 2012, states that "the philosophy of the large and small club seats was flawed." USAT in its submission further states that its current Board will amend its Bylaws to eliminate the distinction between small and large club seats and instead require that (i) a candidate must operate a club with at least 15 registered USAT members and (ii) the candidate's club must have a valid address where athletes are actively training. USAT shall fulfill this commitment.

119. Elections for the Coach, Referee and Club Board seats will occur as soon as possible, following as is practical the timeline proposed by USAT in its January 24, 2012, submission. The USAT shall report to the Advisory Committee and obtain Board approval on a finalized timeline.

120. Also, the election process for the Coach, Referee and Club Board seats shall be open to all eligible candidates. All candidates, including those candidates that indicated their intent to seek a Board seat in 2010, are required to submit a new candidate application.

121. The two (2) Independent Board seats will be filled as soon as possible, pursuant to a timeline recommended by the Advisory Committee and approved by the Board. The election process for the Independent seats is open to all eligible candidates seeking a seat on the Board, and is not just open to those individuals who had previously indicated their intent to seek a Board seat in 2010. The Advisory Committee shall recommend individuals to the Board who meet the independent requirements set forth in Section 7.7 of the USAT Bylaws. The Board shall then vote on the Independent members.

122. Except for the newly elected Independent members, who may continue their service on the Board after December 31, 2012, the terms for all other Transitional Board members shall expire on December 31, 2012.⁹

D. USAT Organizational Structure and Board Composition

123. USAT shall conduct a thorough review of its organizational structure and Board composition. The goal shall be the creation of a governance model that is optimal for the sport of Taekwondo today and for the future. This review shall look at ways to involve individuals

⁹ If the new Board is not seated on December 31, 2012, then the Transitional Board members may continue to serve until the new Board is seated.

who understand the history and have sufficient knowledge of the sport of Taekwondo, who have business acumen, who have financial expertise, who have experience in fostering membership growth and who have knowledge of improving sport performance. Of prime importance is undertaking a review of whether a constituency-based Board serves the best interest of the sport of Taekwondo. The review shall also investigate how real or perceived conflicts of interests, which result from a constituency-based Board, affect the Board's ability to carry out its responsibilities. The review shall also consider whether independent Board seats should be expanded and how independence should be defined. Also, the review shall look at the composition and responsibilities of the Nominating Committee (formerly Nominating and Governance Committee) and at ensuring a thorough, fair and trusted nomination and election process. Additionally, the review shall look at the role and function of clubs within USAT's structure, the structure and governance of state associations, and the recognition and role of affiliate organizations.

E. Board Training

124. USAT shall institute a training program for Board members. This program shall educate Board members on the business and government affairs of USAT. The program shall include, among other topics: Board duties and obligations, effective leadership, financial basics, decision making, working with management, communicating with membership, fulfilling fiduciary obligations, including statutory and common law obligations and financial oversight and general best practices of Board service.

F. Athlete Representation and Involvement

125. USAT shall ensure that at all times it has at least twenty (20) percent athlete representation on its Board and committees. Matters calling for a vote must allow for those

athletes who are in attendance at the meeting to vote. If action is taken pursuant to conference call, email, or facsimile, athlete representatives who participate in those communications must be included in the vote.

126. Further, USAT pledged in its January 24, 2012, submission that it will attend and participate in athlete meetings at USAT events in order to improve athlete communication and involvement. Additionally, USAT indicated that it will hold quarterly conference calls with USAT's AAC. USAT shall fulfill these commitments.

G. USOC AAC Board Seat

127. Section 7.6.b. of USATs Bylaws provide that one of the athlete members of USAT's Board shall be the USAT's representative to the USOC's AAC. Because of a complaint filed by a USAT member alleging a possible conflict, the Board determined that this individual should be suspended and not participate in Board business. This issue has been of some controversy. The USOC AAC member contends that no conflict existed, that he was never afforded a hearing on the issue or an opportunity to respond to the complaint, and that if a conflict did exist it has since been resolved. USAT shall resolve this issue within thirty (30) days of this Report, Decision and Recommendation and report back to the Hearing Panel on whether the USOC AAC member's seat on the Board has been reinstated, or if not, the reason for excluding the USOC AAC member from participation on the Board.

H. Chief Executive Officer

128. USAT currently has an interim CEO who serves under a month-by-month contract. In order to provide organizational stability through the 2012 London Olympic Games, USAT shall either hire an interim CEO through the 2012 Games or hire a CEO on a permanent basis. The current interim CEO shall be eligible for the CEO position, either through the 2012

Games or on a permanent basis. The individual selected shall have the managerial ability and experience necessary to effectively execute all day-to-day business and operations of the organization.

I. Chief Financial Officer

129. Currently USAT does not have a CFO. USAT shall hire a competent financial manager or outside contractor who is a CPA to serve as a senior financial officer. This individual shall have the ability and experience necessary to enable USAT to implement sound financial practices and procedures.

J. Financial Health and Controls

130. USAT shall assess its financial situation and implement programs to address its financial health and well-being. This includes implementing a sound budgeting process, reviewing ways to increase revenue streams and monitoring expenditures so as to not continue with deficit spending.

131. USAT shall fully implement all thirty-three (33) recommendations from the USOC audit report dated July 20, 2011.

132. USAT shall cooperate with the USOC Audit Division on a follow-up review of the organization's progress in implementing the recommendations from the audit report dated July 20, 2011. The review shall be performed during the third (3rd) quarter of 2012.

133. USAT shall appoint an Audit Committee that includes individuals who are experienced in finance and accounting, and who will actively monitor the organization's financial position and controls.

134. USAT in its January 24, 2012, response indicated that it would monitor performance against budget on a monthly basis, continue to collect past due receivables and if it

appears that certain receivables are not collectable write them off, aggressively pursue new revenue opportunities including developing new fundraising platforms, forge new revenue partners, and review membership dues structures. Additionally, USAT indicated that it would communicate with the USOC Audit Division on a monthly basis regarding USAT's progress on implementing the Audit Division's recommendations. USAT shall fulfill these commitments.

K. Compliance with State Law

135. USAT is incorporated in the State of Colorado. As such it must operate in accordance with Colorado non-profit corporate law. In the past various actions of USAT have been questioned, based on whether USAT has complied with state law provisions. As is necessary, USAT shall seek the advice and counsel of an attorney licensed in Colorado to provide guidance in this area.

L. Grievance Procedures and Process

136. USAT shall review its current grievance process and take measures to ensure that hearings are fair and heard in a timely manner.

137. USAT shall comply with its Bylaws in appointing hearing panels and hearing grievances. USAT's Bylaws provide that hearing panels shall consist of three individuals, at least one of whom must be an athlete representative. Further, it is the responsibility of the chair of the Judicial Committee to appoint the members of the hearing panels, but there is no requirement that the chair sit on the hearing panel.

138. USAT indicates in its January 24, 2012, submission that it will expand its Judicial Committee to ten (10) members so that there are enough capable and available individuals to hear grievances. USAT also indicates that it will appoint a staff member to liaise with the

Judicial Committee to provide administrative support and ensure timely adjudication of grievances. USAT shall fulfill this commitment.

139. Hearing panels shall be appointed within twenty (20) days of this Report, Decision and Recommendation to address all outstanding grievances. All outstanding grievances shall be resolved within sixty (60) days of this Report, Decision and Recommendation.

140. Further, USAT shall reimburse the Harris Complainants \$1,250.00 in excess filing fees within fifteen (15) days of this Report, Decision and Recommendation.

M. Communication with Members and Transparency of Activities

141. USAT shall take immediate steps to effectively communicate with its members and be transparent regarding its actions.

142. USAT shall post complete and accurate minutes on its website within fifteen (15) days of Board meetings.

143. Further, Board meetings should only be conducted in executive session when there is good cause for doing so. The Board should not adjourn to executive session when discussing non-confidential topics as a way to shield information from its members. When the Board adjourns to executive session, it shall note the reason for doing so in its minutes.

144. USAT shall prepare and post year-end financials and IRS Form 990s on its website in a timely fashion.

145. USAT shall post on its website matters relating to Board elections, including candidacy requirements, the nomination process, record dates and election timelines.

146. USAT shall provide information on its website concerning this Section 10 proceeding so that its members are appropriately advised of the compliance issues that are confronting USAT and its efforts to address those issues.

147. USAT indicates in its January 24, 2012, submission that it will adopt a number of mechanisms to improve communications with its members and provide important and relevant information concerning its activities. These mechanisms include posting monthly newsletters and biweekly Board reports, hosting “town hall” meetings at USAT’s National Championships, publishing an annual State of the Sport report, and creating a “members only” page and discussion board on its website. To the extent that these mechanisms prove useful and serve to foster better communications and a more transparent organization, USAT should move forward with these endeavors.

XII. USOC BOARD ACTION

148. Section 10.18 of the USOC Bylaws provide that if a Hearing Panel determines that an NGB is not in compliance with the Act and USOC Bylaws, it shall notify the USOC Board and the Parties of its findings. It is also required to issue a reasoned decision and make a recommendation to the USOC Board regarding the action to be taken with respect to the NGB.

149. Further, pursuant to Section 220528 of the Act and Section 10.19 of the USOC Bylaws, if a Hearing Panel finds an NGB not in compliance it may recommend (i) that the recognition of the NGB be revoked or (ii) that the NGB be placed on probation for a period of six months. If placed on probation, the period of probation can be extended if the NGB is not yet in compliance, but is making significant progress in meeting its compliance issues. Otherwise, the NGB’s recognition can be revoked after the six (6) month probationary period.

150. This Report, Decision and Recommendation provides a report of this proceeding, serves as the Hearing Panel’s reasoned decision and serves as the Hearing Panel’s recommendation to the USOC Board.

151. As set forth above, the Hearing Panel finds that USAT is not meeting its NGB requirements and obligations as set forth in the Act and USOC Bylaws. Accordingly, the Hearing Panel requests that the USOC Board adopt the Hearing Panel's finding regarding USAT's non-compliance.

152. Further, the Hearing Panel recommends, and requests, that the USOC Board place USAT on probation for a period of six (6) months, which may be extended if USAT is not yet in compliance, but shows that it is making sufficient progress in addressing its compliance issues.

153. Additionally, the Hearing Panel requests that the USOC Board adopt the recommendations outlined by the Hearing Panel, which USAT must address in order to fulfill its obligations as an NGB.

154. In accordance with Section 10.20 of the USOC Bylaws, the Hearing Panel will retain continuing jurisdiction over this matter and after six (6) months report back to the USOC Board on USAT's progress in coming into compliance.

Dated this 27th day of February, 2012.

A handwritten signature in black ink, appearing to be 'SL', written over a horizontal line. To the right of the signature, the letters 'FOR' are written in a smaller, less distinct hand.

Susanne Lyons, Chair

Sarah Konrad, Panel Member

Glenn Merry, Panel Member