

USA TAEKWONDO, INC.

USA TAEKWONDO, INC.	)	Case Number 04242012
In re the Matter of:	)	
Robert Gallagher,	)	
	)	DECISION OF JUDICIAL COMMITTEE
	)	RE: ADMINISTRATIVE GRIEVANCE
Petitioner.	)	EXPEDITED HEARING
And	)	
	)	
USA Taekwondo	)	
	)	
Respondent.	)	
_____	)	

The matter of the Administrative Grievance filed by Mr. Robert Gallagher against USA Taekwondo (USAT) came on for hearing April 25, 2012 at 8:00 p.m. Eastern Daylight Time via recorded conference call. Mr. Gallagher represented himself and his son, Brian, who was not selected to receive one of two available Prospect Waivers from the USAT National Coaches. USAT was represented by Mr. Eric Parthen. The USA Taekwondo Judicial Committee consistent of Athlete Member Anthony Bell, Committee Member Douglass Lewis and Chair Paul Krogh. The grievance was filed by Mr. Gallagher on or about April 23, 2012 with a request for an expedited procedure pursuant to Article 15.11 of the By-Laws.

Mr. Gallagher Administrative Grievance

Mr. Robert Gallagher has brought an administrative grievance to the USAT alleging that the process for granting a National Team Prospect Waiver was flawed due to a lack of defined process for the awarding of a Prospect Waiver and a real or perceived conflict of interest on the part of National Team Coach Jean Lopez, since Mr. Lopez' brother, Mark Lopez whom Jean Lopez also coaches, is participating in the National Team trials beginning April 28, 2012. Mr. Gallagher further alleges that his record against the

light weight division field makes him the proper choice to receive one of the Prospect Waivers, rather than the other two male athletes, Johnny Nguyen and Christian Suh.

As a result of Brian Gallagher not receiving one of the Prospect Waiver due to the alleged conflict of interest, Mr. Gallagher seeks four remedies: (1) USAT issue a special waiver to Brian Gallagher to participate in the upcoming Team Trials on April 28, (2) if a special waiver is granted, then USAT award any and all benefits given to the other athlete competing, (3) refund the \$250 complaint filing fee is a decision is made in Mr.Gallagher's favor and (4)USAT address selection procedures used by the National Team coaches, including 20% athlete representation.

Mr. Gallagher presented the follow grounds for his request:

1. Brian Gallagher had a demonstrated superior record to the other male athletes granted the available Prospect Waivers, including a recent defeat of Mark Lopez;
2. Coach Lopez had a duty to recuse himself from the Prospect Waiver process since his brother was competing for a spot on the National Team in the same division as Brian Gallagher.

Mr. Gallagher presented an email from Board Member Jason Han stating that Mr. Han believed there was an inherent conflict of interest in the finalized selection of athletes, whether factual or perceived.

Mr. Gallagher presented no witnesses, but did present the testimony of Brian Gallagher, who stated his case as to why he should have been granted one of the Prospect Waivers, rather the other athletes.

On rebuttal, USAT presented several documents including the approved athlete selection procedures, emails related to the selection process, a written explanation to Mr. Gallagher dated March 28, 2012, and the waiver applications of Gallagher, Nguyen and Suh. USAT also presented the testimony of Ms. Meredith Miller, USAT High Performance Coach, and National Team Coaches Mr. Juan Moreno and Mr.

Jean Lopez. These three people testified under oath to the selection process for the Prospect Waivers and the reasons for the selection of the two athletes. This testimony was consistent with Mr. Parthen's email to Mr. Gallagher, dated March 28, 2012.

## FINDINGS

The Judiciary Panel finds the following:

- The selection criteria was publically published and signed off by appropriate USAT representatives, including the AAC representative, Mr. Eric Laurin. (USAT Exhibits 1 and 2). However, the document is silent regarding conflicts of interest. Therefore, the Panel must reference the standards set forth in the By-Laws.
- Article 18.d of the By-Laws requires that that all transactions are handled honestly and recorded accurately. No meeting minutes were prepared regarding the decision making process; as such, there is no record at all of the transaction process regarding the Prospect Waiver decision making process, including accommodations for conflicts of interest.
- Article 18.f requires the avoidance of conflicts of interest, both real and perceived. There is no evidence whatsoever that the USAT Team Coaches acted improperly. However, the Team Selection document is silent regarding conflicts of interest and recusal. The Coaches were forced into a position where inherent conflicts by both coaches could not have been avoided as they were required to make Prospect Waiver selections in conflict with their own players whom they coach. Therefore, the Waiver process is fundamentally flawed since both coaches would have had to recuse themselves for the male competitors, leaving no room for the award of any Prospect Waivers – against the spirit and intent of the Waiver.

- Meredith Miller's email of March 1, 2012 and the testimony of the two coaches indicates that Brian Gallagher was qualified to receive a Prospect Waiver, but ranked below the other two competitors.
- As a result of the flawed process in the Athlete Selection Procedures and the coaches' inherent conflicts of interest which were not addressed prior to the Waivers being awarded, the Panel finds that these Waivers were not processed in the fairest possible manner. In an effort to remedy this situation, the Panel's decision is as follows:

### DECISION

1. Mr. Gallagher's request for Brian Gallagher's entry into the upcoming Team Trials in the Lightweight Division is granted.
2. As a result of Item 1, Mr. Brian Gallagher is awarded all rights and responsibilities comparable to other competitors in his weight division.
3. Mr. Gallagher shall have his fee refunded to him.
4. For future National Team selection criteria and processes, the Panel recommends that USAT clarify the Waiver process in both the Prospect Waiver section and in Article II – Discretionary Waivers. This includes a study and adoption of National Governing Body best practices for bringing transparency to the process, preparation of meeting minutes, elimination of conflicts of interest – either real or perceived, and inclusion of Athlete participation in the Waiver decision making process (not just the document drafting).
5. The Panel wishes to make clear that there is no evidence, allegation or belief by the Panel that either Coach Moreno or Coach Lopez acted improperly. Within the bounds of the Athlete Selection Procedures, they appear to have acted in good faith. However,

the appearance of conflicts of interest brought in Mr. Gallagher's complaint overwhelms the efforts made by the Coaches.

SO ORDERED.

DATED: April 25, 2012.

\_\_\_\_\_  
/s/ Anthony Bell  
Anthony Bell, Athlete Member

DATED: April 25, 2012.

\_\_\_\_\_  
/s/ Douglass Lewis  
Douglass Lewis, Member

DATED: April 25, 2012.

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/s/ Paul B. Krogh  
Paul B. Krogh, Chair