BEFORE NEW ERA ADR

Andrew Doddo, **Claimant,** **v.** **USA Fencing,** **Respondent, and** **Mitchell Saron, Filip Dolegiewicz** **Affected Athletes**	**ORDER DENYING MOTION TO DISMISS** **Case No. 24061201** **Arbitrator - Judge M. Alex Natt** **(CORRECTED)**

On June 18, 2024, at the Preliminary Hearing, Respondent USA Fencing ("Fencing") requested that the Arbitrator permit it to file a Motion to Dismiss on the basis that Claimant's Section 9 filing was untimely. The Arbitrator granted the request in the interest of determining whether he had jurisdiction to review the matters set forth in the Complaint.

On June 19, 2024, Fencing filed its Motion to Dismiss Claimant Doddo's ("Doddo") Section 9 Complaint. Affected Athlete Mitchell Saron ("Saron") joined the Motion. In short summary, Fencing argues that Doddo was on notice that qualification points awarded to Saron, which Fencing contends Doddo understood at the time were suspect, could result in Doddo being denied a place on Fencing's saber squad for the 2024 Paris Olympic Games. Fencing argues that Doddo was required to file this Section 9 action within 180 days of the awarding of disputed qualification points in 2023. Fencing argues that since the last suspect points were awarded on December 7, 2023, that Doddo would have had to file his Section 9 Complaint on or before June 4, 2024. He filed it on June 11, 2024.

Doddo contends that the Section 9 "denial date" was May 1, 2024, when Fencing announced its Olympic saber squad and awarded a place to Saron and not to Doddo. Only then, Doddo argues, was the decision of who to name to the squad finalized and all athletes put on notice.

The Arbitrator agrees with Arbitrator Benz's admonishment in *Beaman v. USA Shooting* that, due to the necessarily compressed nature of Section 9 complaints generally (and Olympic selection disputes in particular), an arbitrator should only grant a dispositive motion when the issues raised are so clear and unequivocal that a denial is the only rational outcome. The Arbitrator finds that those circumstances do not exist here.

The Arbitrator disagrees that *Crocklem v USA Boxing* compels the outcome desired by Fencing and Saron. Arbitrator Mitten dismissed that case because the claimant failed to challenge the "facial validity" of the Team Selection procedures within 180 of publication. Doddo does not allege that the selection criteria themselves are faulty; rather he contends that the application of the selection criteria using points he claims were awarded fraudulently has denied him the opportunity to compete.

The Arbitrator believes that principles of fundamental fairness dictate that Doddo's interpretation is the correct one. The saber squad selection announcement was made on May 1, 2024. Prior to that date it was unknown to all whether Saron would be named to the team (and Doddo excluded) or whether Fencing's investigation would result in the stripping of Saron's disputed points and a different team named.

Speculation as to a selection decision should not form the basis for a denial of an athlete's ability to file a Section 9 claim. Doddo filed his Complaint well within 41 days of the denial date of May 1, 2024 when the selection decision was confirmed and made public.

For these reasons the Arbitrator DENIES the Motion to Dismiss. The hearing will proceed as scheduled.

DATED this June 20, 2024.

New Era ADR

M. A. Natt

Hon. M. Alex Natt