

UNITED STATES OLYMPIC & PARALYMPIC COMMITTEE

UNITED STATES OLYMPIC &)
PARALYMPIC COMMITTEE,)
Complainant)
)
v.)
)
USA SKATEBOARDING FEDERATION)
)
Respondent.)

PRELIMINARY HEARING REPORT AND SCHEDULING ORDER

On August 9, 2022, the United States Olympic & Paralympic Committee (“**USOPC**” or “**Complainant**”) filed a Complaint against USA Skateboarding Federation d/b/a USA Skateboarding (“**USAS**” or “**Respondent**”) (hereinafter referred to individually as “**Party**” and collectively as “**Parties**”) pursuant to Section 220521(d) of the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220552) (the “**Act**”) and Section 8 of the USOPC Bylaws. In accordance with Section 220521 of the Act and Section 8.20.1 of the USOPC Bylaws, in consultation with the USOPC Board Chair, Chair of the Athletes’ Advisory Council (“**AAC**”) and Chair of the National Governing Bodies Council (“**NGBC**”), the Chair of the USOPC, Susanne Lyons, appointed an independent Hearing Panel of three members to hear the Complaint. The Hearing Panel members are: Muffy Davis (Hearing Panel Chair and USOPC Board Member), Keith Bryant (CEO of USA Judo and Member of the NGBC), and Lauren Reedy (Diving athlete and athlete representative on the AAC) (collectively “**Panel**”). No objection has been made as to the appointment and service of the Panel.

A preliminary hearing was held on September 22, 2022, before the Panel. Attending the preliminary hearing via Zoom conference call were Holly Shick and Evan North (representing USOPC) and Stephen Hess of The Law Office of Stephen A. Hess, P.C. (representing USAS). Additionally, the following individuals attended the preliminary hearing: Johnny Schillereff (CEO of USAS), Daniel Gale (General Manager of USAS), Christian Dennie (Counsel for the Panel), Sara Pflipsen (Senior Counsel for Dispute Resolution and Athlete Affairs at the USOPC), and Lucy Denley (Manager of Dispute Resolution at the USOPC).

By agreement of the Parties and Order of the Panel, the following is now in effect:

1. Hearing: The Zoom hearing in this matter shall commence before the Panel at **9:00 a.m. MT on December 19 and 21, 2022.** The Parties contemplate that the hearing will

require 1-2 days of hearing time. Zoom instructions will be provided prior to the hearing. Parties shall be provided with a maximum of fifteen (15) minutes for opening statements and fifteen (15) minutes for closing statements. The hearing shall be a closed hearing. Except for the designated party representative, witnesses will be sequestered. This is a firm setting and will not be changed or continued absent exceptional circumstances and upon a showing of good cause. The Parties shall follow the deadlines, to be complied with by 5:00 p.m. MT on each corresponding date unless otherwise noted, as set forth below:

November 30, 2022 *Exchange of Exhibits, Exhibit Lists, and Witness Lists:* No later than this date, the Parties shall exchange witness lists, exhibit lists, and copies of (or, where appropriate, make available for inspection) all exhibits to be offered at the final hearing. The Parties may provide witness testimony via affidavit and/or declaration and are encouraged to do so. Any affidavit and/or declaration shall be made and signed under the penalty of perjury. Any witness testifying via affidavit or declaration, shall be made available for cross-examination. Each proposed exhibit shall be pre-marked for identification.

A brief explanation of the testimony to be offered by each witness shall be provided as a part of the witness list.

December 5, 2022 *Joint Exhibits, Joint Witness Lists, Joint Formal List of Issues, and Stipulations:* No later than this date, the Parties shall file a joint list of exhibits expected to be offered at the hearing, a joint list of witnesses to be offered at the hearing, a joint formal list of issues to be decided by the Panel, and a joint statement of uncontested facts and stipulations.

Each proposed exhibit shall be pre-marked using the following designations:

| <u>PARTY</u> | <u>EXHIBIT #</u> | <u>TO EXHIBIT #</u> |
|--------------|------------------|---------------------|
| Complainant | C1 | C__ |
| Respondent | R1 | R__ |

If the exhibits are agreed upon by the Parties, then they shall be numbered consecutively. The Parties shall submit all exhibits electronically to Lucy Denley at Lucy.Denley@usopc.org and shall provide hard copies of the exhibits to the Panel (four copies) by mailing the same to Lucy Denley at USOPC, 1 Olympic Plaza, Colorado Springs, CO 80909. A copy of all exhibits shall also be provided to the Panel's counsel, Christian Dennie, and shall be mailed to Fox Rothschild, LLP, Saint Ann Court, 2501

N. Harwood Street, Ste. 1800, Dallas, Texas 75201. The exhibits shall be provided in a tabbed and indexed binder.

Any disputes regarding exhibits and/or witnesses will be decided by the Panel per a Party's request.

December 12, 2022 *Briefs on the Issues and Substantive Law*: No later than this date, the Parties shall serve and file a brief addressing all disputed issues. Briefs shall not exceed thirty (30) double-spaced pages, excluding copies of any authorities that the Parties may submit at the same time. The Parties are invited to highlight any authorities as they deem appropriate.

2. USAS Answer: USAS shall file a formal answer to the Complaint no later than **October 3, 2022**.

3. Pre-Hearing Conference: A pre-hearing conference call is scheduled for **December 15, 2022, at 9:00 a.m. MT** before the Panel. A Zoom invitation will be provided. The Parties shall confer regarding a proposed agenda and shall submit a proposed agenda for the call no later than **December 12, 2022, at 5:00 p.m. MT**.

4. Discovery: The Parties shall comply with the following discovery schedule. Any discovery tool that is not expressly provided below shall be presented to the Panel for consideration (*i.e.*, depositions, interrogatories, etc.) in an explanation for the need of such discovery in no more than a one (1) page written letter. Any dispute regarding the exchange of information shall be brought to the attention of the Panel in writing no later than **November 22, 2022**.

a. *Written Discovery*:

i. The Parties shall exchange disclosures and all relevant documents by no later than **October 10, 2022**.

ii. The Parties may serve no more than ten (10) Requests for Production by no later than **November 1, 2022**.

iii. Answers to discovery requests are due within fourteen (14) days of receipt of the requests.

iv. Any and all supplementation of discovery shall be made no later than **November 15, 2022**.

b. *Electronic Discovery*: The Parties have expressed that there will be no issues with electronic discovery. If the Parties identify the exchange of electronic

discovery will be required, then the Parties shall contact the Panel, if necessary, to issue orders relating to the same.

5. Motions: The Parties do not contemplate the filing of motions at this time. If a Party desires to file a motion, the Party requesting relief shall seek leave to file the motion and present an explanation for the basis of the relief sought in no more than a one (1) page written letter.

6. Confidentiality: All filings in this proceeding and the transcript and/or recording, if applicable, will remain confidential. A Party or the Parties may make a request to the Panel for any measures required to protect confidential information.

7. Communication: There shall be no direct oral or written communication between the Parties and the Panel. All documents and/or correspondence shall be filed with Lucy Denley (Lucy.Denley@usopc.org).

8. Deadline Enforcement: All deadlines stated herein will be strictly enforced and adhered to in order to avoid unnecessary delay and to ensure an expedient and fair resolution of this matter. This order shall continue in effect unless and until amended by subsequent order of the Panel.

9. Court Reporters/Recordings: The Parties may request a court reporter or recording of the final hearing of this matter. The Parties, or requesting party, if there is no agreement, shall notify the Panel of the intent to record the proceedings no later than **December 5, 2022**. If only one Party requests a court reporter or other recording of the final hearing, then the requesting party shall pay the court reporter's costs and/or recording costs but each Party will be responsible for purchasing their own copy of the transcript. If both Parties request a court reporter, then the Parties will split the court reporter's costs equally. A copy of the transcript and/or recording shall be provided to the Panel at no cost within ten (10) days of the close of the hearing. The transcript and/or recording shall not be released to the Parties until the Report and/or Recommendation has been issued.



September 30, 2022
Date

Muffy Davis, Chair

Keith Bryant, Panel member
Lauren Reedy, Panel member