

**NEW ERA ADR**

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Case No. 24040501

In the Matter of the Arbitration between

DEDRICK CROCKLEM, Claimant

and

USA BOXING, INC. Respondent

and

EMILIO GARCIA, Affected Athlete.

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**FINAL AWARD**

I, THE UNDERSIGNED ARBITRATOR, having been designated by New Era ADR and in accordance with the Ted Stevens Olympic and Amateur Sports Act ("ASA"), 36 U.S.C. §220505 et seq., Section 9 of the United States Olympic and Paralympic Committee ("USOPC") Bylaws (effective April 1, 2023—March 31, 2024), and the United States Olympic & Paralympic Movement Arbitration Rules ("Arbitration Rules"), and having been duly sworn, and having fully considered the Claimant's March 25, 2024 Section 9 Complaint and Demand for Arbitration; Respondent's Answering Statement and Prehearing Brief; and Affected Athlete's Hearing Brief as well as the parties' respective exhibits and witness testimony during an approximately six-hour video hearing on April 21, 2024, does hereby AWARD, as follows:

**PARTIES**

Claimant Dedrick Crocklem is a very talented boxer who competes in the 63.5kg/139 lbs weight category. He was represented by Brian K. McDaniel, The Cochran Firm, Washington, DC.

Respondent USA Boxing, Inc. is the National Governing Body (“NGB”) recognized and certified by the USOPC for the sport of boxing in the United States. It was represented by Stephen A. Hess, The Law Office of Stephen A. Hess, P.C., Colorado Springs, CO.

Affected Athlete Emilio Garcia is a very talented boxer who competes in the 63.5kg/139 lbs weight category and was chosen by USA Boxing to participate as a member of its 2024 Elite High Performance Team in the International Olympic Committee (IOC)’s World Qualification Tournament #2 in Bangkok, Thailand from May 23-June 2, 2024, at which boxers competed to earn a place in the 2024 Paris Olympic Games. He was represented by Cameron A. Baker, Fox Rothschild LLP, West Palm Beach, FL.

### **MATERIAL FACTS**

Prior to 2017 USA Boxing used a “trials system” pursuant to which it selected the individual boxers who won their respective weight categories in national championship or Olympic Trials tournaments to compete as its team members in international boxing competitions that determined the boxers qualifying to participate in the Olympic Games. (Testimony of Matthew Johnson).

Because fewer U.S. boxers qualified for the Olympic Games and won medals from 2008-2016 than in prior years, USA Boxing switched to a “selection camp” system in 2017. Pursuant to this system, two boxers in each weight category were selected based on their respective success in international boxing competitions to participate against each other and other international boxers in a 4-5 weeks USA Boxing “selection camp.” To select a team with the most well rounded boxers likely to have success in international boxing competitions, including the Olympic Games, USA Boxing switched to this system in an effort to identify the best boxer in each weight class during 4-5 weeks of competition and training rather than the boxer who performed the best during a particular day or boxing match. (*Id.*).

USA Boxing’s “selection camp” system resulted in 10 men’s and women’s boxers qualifying for the 2020 Tokyo Olympic Games, which were delayed until July 23-August 8, 2021 because of the Covid-19 pandemic. USA Boxing’s 10 boxers collectively won four medals during the 2020 Tokyo Olympic Games, the most medals U.S. boxers had won during an Olympic Games since the 2002 Sydney Olympic Games. (*Id.*).

Pursuant to the IOC's selection procedures for the 2024 Paris Olympic Games, each country is permitted to enter only one male and one female boxer per weight class who has qualified for a quota spot by name based on his or her individual performance in their respective continental multi-sport games or in one of two 2024 Olympic World Qualification Tournaments organized by the IOC. Each country is permitted to enter only one male and one female boxer per weight class in each of these three international competitions. (USA Boxing Answering Statement and Prehearing Brief at pp. 2-3).

For example, a U.S. male boxer individually qualifies for a quota spot by name in the 63.5kg/139 lbs category for the 2024 Paris Olympic Games by 1) placing in the top-2 in this weight category in the 2023 Pan American Games, which were held in Santiago, Chile from October 20-November 5, 2023; 2) placing in the top-4 in this weight category in IOC World Qualification Tournament #1, which was held in Italy in March 2024; or 3) by placing in the top-5 in this weight category (if France does not take a spot as the Olympic Games Host Country) in IOC World Qualification Tournament #2 in Thailand from May 23-June 2, 2024. (Exhibit 8; USA Boxing Answering Statement and Prehearing Brief at p. 3).

On April 3, 2023, the "2024 USA BOXING ELITE HIGH PERFORMANCE TEAM SELECTION PROCEDURES - MEN & WOMEN" ("2024 Team Selection Procedures") (Exhibit 3), which establish a "selection camp" for determining USA Boxing's elite high performance team boxers, were published after being duly approved by USA Boxing's Executive Director and the USOPC Athletes Advisory Council ("AAC") Athlete Representative as well as the USOPC. - At the time of their publication no boxers or boxing coaches complained or objected to any of the provisions of the 2024 Selection Procedures or their establishment and use of a "selection camp" for the foregoing objective.

In relevant part, the 2024 Team Selection Procedures provide as follows:

"The following procedures will be utilized by USA Boxing to select its Elite High Performance Team for 2024. Athletes selected based on these procedures will be given the first opportunity to participate in elite training camp and international competition opportunities, including any Olympic qualifying events that take place in 2024.

### **Important Notice**

If a US boxer qualifies for the 2024 Paris Olympic Games through the 2023 Pan American Games, his or her qualification will be accepted by the US Olympic & Paralympic Committee and USA Boxing. In this scenario, the weight category that the boxer qualifies in will still be contested at the 2024 Olympic Trials for Boxing. The athlete who places first at this event will not advance to the next stage of team selection for 2024 but will be considered as an alternate in case the qualified athlete must withdraw from competing at the Paris 2024 Olympic Games.

### **Minimum Eligibility Requirements**

To be considered eligible to participate in USA Boxing's 2024 Elite High Performance Team Athlete Selection process, athletes must meet the following criteria:

1. Athlete must have proof of U.S. citizenship
2. Athlete must have a valid and current U.S. passport at the time of selection
3. Athlete must be eligible to compete for USA in accordance with all USA Boxing rules.
4. Athlete must be a member in good standing of USA Boxing, meaning the athlete is not under suspension from USA Boxing.
5. Athlete must be a minimum of 18 years old by date of birth and cannot be older than 39 years old during the year that the 2024 Olympic Trials for Boxing occurs.
6. Athlete must meet all requirements to be eligible to train at the Olympic & Paralympic Training Center (OPTC), as established by the US Olympic & Paralympic Committee (USOPC). These requirements include:
  - a. Completed Safe Sport Certification
  - b. Completed background screening

In addition to the minimum eligibility requirements above, athletes must meet at least one of the following performance markers to advance to the evaluation stage of the selection process:

- A. Athlete must be a member of the 2023 Elite High Performance Team, in accordance with the 2023 Elite High Performance Team Selection procedures and have won a minimum of two (2) medals at international competitions in 2023.
- B. Athlete must be the \*1st place finisher from the 2024 Olympic Trials for Boxing (December 3-10, 2023] – Lafayette, Louisiana) in an Olympic weight category listed below.

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### **Olympic Weight Categories**

USA Boxing's evaluation of athletes will be determined based upon their ability to compete in the following Olympic weight categories.

### Elite Men's Olympic Weight Categories

51 kg/112 lbs.

57 kg/125 lbs.

63.5 kg /139 lbs.

71 kg/156 lbs.

80 kg/176 lbs.

92 kg/203 lbs.

92+ kg/203+ lbs.

### **Evaluation & Team Selection**

Athletes who meet the requirements above will be selected to participate in the USA Boxing Elite Team Evaluation & Selection Camp, taking place January TBD, 2024. Each athlete who participates in the USA Boxing Elite Team Evaluation & Selection Camp will be evaluated by the USA Boxing High Performance Staff. This evaluation will be based on the High Performance Evaluation Guidelines outlined in Attachment A.

Once the evaluation process is complete, all evaluations will be submitted to the \*High Performance Selection Committee, which is composed of the USA Boxing High Performance Director and USA Boxing AAC Athlete Representative. The High Performance Selection Committee will review all evaluations and the athlete with the best evaluation, per weight class, will be selected to the Elite High Performance Team. Athletes who meet a minimum evaluation score of 65 points but are not selected to the Elite High Performance Team will qualify to the Elite High Performance Squad and will be ranked within an Olympic weight category according to his or her evaluation score.

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### **Removal of Athletes After Selection**

An athlete who is selected to USA Boxing's Elite High Performance Team may be removed for any of the following reasons, as determined by USA Boxing:

- a) Voluntary withdrawal. Athlete must submit written notification to USA Boxing's High Performance Director.
- b) Injury or illness as certified by a physician (or medical staff) approved by USA Boxing. If an athlete refuses verification of his or her illness or injury by a physician (or medical staff) approved by USA Boxing, his or her injury will be assumed to be disabling and he or she may be removed.
- c) Failure to participate in Mandatory Training Camps and/or Competitions.
- d) Failure to comply with the USA Boxing Elite Athlete Contract, Code of Conduct and/or National Team Policies and Procedures.
- e) Failure to achieve minimum performance markers as detailed in writing by USA Boxing at the time of selection.

An athlete who is removed from the Team pursuant to this provision has the right to a hearing per USA Boxing’s Bylaws, Article 22 and the USA Boxing Grievance and Complaint Policy.

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USA Boxing provides equal opportunity for athletes to participate in the selection process and does not discriminate on the basis of race, color, religion, sex, sexual orientation, age, or national origin.”

The 2024 Team Selection Procedures’ High Performance Evaluation Guidelines (Exhibit 3, Attachment A) state that “The following evaluation criteria will be utilized during the USA Boxing Elite Team Evaluation & Selection Camp:

A boxer can earn a maximum of 10 points in each of the following categories based on this scoring guide: “0 (Very Poor)” ; “1 or 2 (Poor)” ; “3 or 4 (Below Average)” ; “5 to 6 (Average)” ; “7 to 8 (Above Average)” ; 9 to 10 (Excellent)”.

**High Performance Compliance:** Ability to follow Covid-19 protocol, Team Policies & Procedures, participate fully in individual and team activities.

**International Performance Potential:** Potential for success at the international level based on assessment of technique and skill by USA Boxing’s Coaching Staff.

**Weight Management:** Compliance with Body Weight Management Policy as listed in Team Policies and Procedures.

**Health Management:** Compliance with all Medical Rules and Guidelines as listed in Team Policies & Procedures[.]

**Health Management:** Compliance with all Medical Rules and Guidelines as listed in Team Policies & Procedures.

A boxer can earn a maximum of 50 points in the following category (“**Performance in Training**”) with a maximum of 5 points in each of 10 subcategories based on this scoring guide: “0 (Very Poor) Did not fulfill any aspect of topic”; “1 (Poor) Boxer not competitive, taking too much punishment”; “2 (Below Average) Boxer did not demonstrate enough boxing criteria”; “3 (Average) Boxing demonstrated adequately in boxing criteria, but not consistent; “4 (Above Average) Boxing demonstrated majority of boxing criteria proficiently”; “5 (Excellent) Boxing demonstrated all boxing criteria consistently and dominantly”.

**Performance in Training:** Successful implementation of techniques and tactics taught by National Head Coach, National Strength & Conditioning Coach, and High Performance Staff based on the subcategories listed on the following page.

## **Evaluation Topic (Technical/Tactical Criteria) 0-5**

**Competitiveness/Domination**  
**Combination Punching**  
**Defense/Counter Punching**  
**Effective Jab**  
**Mental Toughness/Conditioning**  
**Effective Feinting**  
**Intensity/Time Between Attacks**  
**Coachability**  
**Adaptability**  
**Rules Infringement/Ring General**

As a member of USA Boxing's 2023 Elite High Performance Team (undisputedly in accordance with USA Boxing's 2023 Elite High Performance Team Selection Procedures), Mr. Garcia competed in the 63.5kg/139 lbs category during the 2023 Pan American Games, but he did not earn a top-2 place to qualify for a quota spot by name in this weight category for the 2024 Paris Olympic Games. (USA Boxing Answering Statement and Prehearing Brief at p. 3).

Mr. Crocklem and Mr. Garcia both satisfied the "Minimum Eligibility Requirements" of the 2024 Selection Procedures.

Mr. Garcia was one of the two boxers eligible to participate in USA Boxing's 2024 Elite High Performance Team Athlete Selection process for the 63.5 kg/139 lbs category because he was a member of its 2023 Elite High Performance Team and won two medals at 2023 international boxing competitions (i.e., gold in the 2023 Gee Bee International Tournament; bronze in the 2023 Strandja tournament).

Mr. Crocklem was the other boxer eligible to participate in USA Boxing's 2024 Elite High Performance Team Athlete Selection process for the 63.5 kg/139 lbs category because he won the 2024 USA Boxing Olympic Trials in this weight category.

During January 2024 Mr. Garcia and Mr. Crocklem fully participated in a four-week USA Boxing training camp in Colorado Springs, Colorado. The 2024 Team Selection Procedures established a multi-week "selection camp" system, which included officiated "test matches" between Mr. Crocklem, Mr. Garcia, and other international boxers, to determine the U.S. boxer most likely to be successful in international competitions as a member of its 2024 Elite High Performance Team in the 63.5 kg/139 lbs category. In accordance with the 2024 Team Selection Procedures, USA Boxing's 8-person High Performance Staff fairly evaluated the respective

performances of both boxers based on the same objective and subjective criteria set forth in the High Performance Evaluation Guidelines, which list primarily boxing performance factors. (Testimony of Matthew Johnson). Claimant did not identify any bias or improprieties in the High Performance Staff's application of any guidelines either individually or collectively to either boxer. Mr. Johnson credibly testified that Mr. Crocklem was not discriminated against "on the basis of race, color, religion, sex, sexual orientation, age, or national origin" during the USA Boxing training camp or boxer evaluation process.

Claimant did not challenge the accuracy of the 80 points he received in his "selection camp" evaluation (Exhibit 5) or the 83 points Mr. Garcia received in his evaluation (Exhibit 6). According to Mr. Johnson, their respective point totals (a "very close" 3-points differential) were among the highest scores of all boxers who participated in the January 2024 USA Boxing training camp.

In accordance with the 2024 Selection Procedures, Mr. Johnson and USA Boxing's AAC Athlete Representative reviewed each boxer's evaluations and ensured that the 2024 Selection Procedures had been followed, which they determined was the case.

Based on its 2024 Team Selection Procedures and his higher total points evaluation, USA Boxing selected Mr. Garcia for its 2024 Elite High Performance Team in the 63.5 kg category, which entitled him to participate in both the IOC's March 2024 World Qualification Tournament #1 in Italy and May 2024 World Qualification Tournament #2 in Thailand.

Mr. Crocklem's score qualified him for USA Boxing's 2024 Elite High Performance Squad and as an alternate to replace Mr. Garcia in this weight category if he were removed from the 2024 Elite High Performance Team for any of the five reasons (i.e., a-e) listed in "Removal of Athletes After Selection" set forth in the 2024 Team Selection Procedures.

As a member of USA Boxing's 2024 Elite High Performance Team, Mr. Garcia competed in the 63.5kg/139 lbs category during the IOC's March 2024 World Qualification Tournament #1 in Italy, but he did not earn a top-4 place to qualify for a quota spot by name in this weight category for the 2024 Paris Olympic Games. (USA Boxing Answering Statement and Prehearing Brief at p. 4).



As of the date of the April 21, 2024 arbitration hearing, Mr. Garcia was a member of USA Boxing's 2024 Elite High Performance Team. There was no evidence presented during the hearing that he should be removed from the team for any of the reasons set forth in the 2024 Team Selection Procedures.

### **PROCEDURAL BACKGROUND**

On March 25 2024, Mr. Crocklem filed his Section 9 Complaint with the USOPC and a Demand for Arbitration with New Era, which requested "a remedy which will allow him a fair opportunity for inclusion on the USA Boxing 2024 High Performance Team and an opportunity within the remaining Olympic Qualifying Tournaments." More specifically, he requested "an immediate box off bout against Mr. Emilio Garcia to determine who will be eligible to move on to the Olympic Qualifying tournament in Bangkok [sic] . . . [to] be conducted by impartial USA Boxing Certified Judges in a transparent forum open to parents and spectators, which he contends "is the only way to ensure that [he] has been given a fair and impartial opportunity to pursue his Olympic dream."

On April 11, 2024, New Era notified Professor Matthew J. Mitten, Marquette University Law School, of his appointment to serve as the Arbitrator in this proceeding.

On April 12, 2024, the Arbitrator held a Preliminary Hearing by telephone in which the parties' counsel participated and agreed there was no objection to the Arbitrator's appointment or any dispute regarding his Section 9 jurisdiction in this case as well as agreed on the dates for the submission of prehearing briefs, exhibits, and an evidentiary hearing.

The Arbitrator's Scheduling Order required the parties to file their respective prehearing briefs and exhibits before 1159pm CT on April 19, 2024 and scheduled the evidentiary hearing for April 21, 2024 beginning at 1230pm CT via Zoom.

On April 19, 2024, USA Boxing and Mr. Garcia filed their respective prehearing briefs and exhibits 1-7. Mr. Crocklem did not file a prehearing brief or any exhibits.

On Sunday, April 21, 2024, the Arbitrator conducted an evidentiary hearing via Zoom Video Conference, which lasted approximately six hours. In addition to the parties and their counsel, the following persons participated in and/or observed the hearing: Mike McAtee

(Executive Director/CEO, USA Boxing); Matthew Johnson (High Performance Director, USA Boxing); Jason Hamilton (Mr. Crocklem's boxing coach); Johnny Lee Bryant (Vice President, Pacific Northwest Region, USA Boxing); Ms. Crocklem (Dedrick's mother); Mr. Crocklem (Dedrick's father); Katherine DeStefano (Associate General Counsel, Litigation & Dispute Resolution, USOPC); and Emily Azevedo (Senior Associate Athlete Ombuds, USOPC). Abigail Barnett, a Marquette University Law School third-year student, served as the Arbitrator's law clerk and took notes during the arbitration proceeding.

After the parties' Opening Statements, the following witnesses testified during the hearing: Mr. Hamilton; Mr. Bryant; Ms. Crocklem; Mr. Johnson; and Mr. Garcia. The Arbitrator admitted exhibits 1-7 along with exhibit 8 (a flowchart illustrating process for selection and qualification of Team USA boxers to participate in 2024 Paris Olympic Games) that USA Boxing introduced during the hearing without any objection from the Claimant or his counsel. After the parties had presented their respective evidence and made Closing Arguments, Mr. Dedrick Crocklem made a brief statement requesting an opportunity for a box-off with Mr. Garcia based on his belief he's the best U.S. male boxer at 63.5kg/139 lbs with the winner earning the opportunity to participate in this weight category at the World Qualification Tournament #2 in Bangkok, Thailand and World Qualification Tournament #2 in Bangkok, Thailand to potentially qualify to compete in the 2024 Paris Olympic Games as a member of Team USA. Thereafter, the Arbitrator closed the hearing.

After the hearing, in response to the Arbitrator's April 22, 2024 email, all parties and their counsel agreed in writing that they had been given a full and fair opportunity to be heard.

On April 23, 2024, the Arbitrator issued an Operative Award affirming "USA Boxing's selection of Mr. Garcia to participate in the 2024 World Qualification Tournament #2 in the 63.5kg/139 lbs weight category as a member of its 2024 Elite High Performance Team and reject[ed] Mr. Crocklem's Section 9 Complaint in its entirety." In accordance with the Scheduling Order, the Arbitrator agreed to issue a reasoned award by June 7, 2024.

On June 6, 2024, at the Arbitrator's request, USA Boxing and Mr. Garcia agreed to extend the date for issuing the reasoned award to June 10, 2024, to which Mr. Crocklem and his counsel did not object.

## **JURISDICTION**

Pursuant to Section 9.2 of the USOPC Bylaws, the Arbitrator has undisputed jurisdiction to resolve the parties' dispute, specifically, whether USA Boxing has denied Claimant the opportunity to participate in the IOC's World Qualification Tournament #2 in Bangkok, Thailand, during which an American male boxer who placed in the top five boxers in the 63.5kg weight category would earn an opportunity to compete as a member of Team USA at the 2024 Paris Olympic Games, which is a "protected competition" pursuant to Section 1.3(x)(ii) of the USOPC Bylaws.

## **LEGAL ANALYSIS**

In his Section 9 Complaint and Demand for Arbitration, Mr. Crocklem requests "an opportunity for a box-off" against the Affected Athlete with the winner earning the opportunity to participate in the World Qualification Tournament #2. Relying on the testimony of Mr. Bryant, he noted that prior to the 2020 Olympic Games, USA Boxing used a "trials system" to publicly and transparently score 8 boxers in each weight class in a double elimination tournament to determine the best boxers to participate in the international qualifying competitions for the Olympic Games. "In 2020 USA Boxing modified this procedure by converting to a process in which the committee could decide to replace Olympic Trials Champions with boxers who they chose by a selection committee and at the committee's sole discretion." He asserts that his "current circumstance . . . is a result, at some level, of the current USA Boxing qualifying process" established by the [2024 Team Selection Procedures]. More specifically, he contends that "as a result of this process [he] has found himself in an untenable position" because [the Affected Athlete Mr. Garcia] is the current Select Athlete who has been chosen by the [USA Boxing] select committee to participate in the upcoming [World Qualification Tournament #2] for the United States in the 139lb division." (Complaint/Formal Arbitration Request at p. 2).

In response, USA Boxing contends that "Mr. Crocklem has understood since April 3, 2023 that USA Boxing would choose athletes [for its 2024 Elite High Performance Team] through the [January 2024] Selection Camp and not through trials." "Despite having that information in April 2023 [when the 2024 Selection Procedures were published], Mr. Crocklem did no object to those procedures within 180 days as required under Section 9 of the USOPC

Bylaws.” (USA Boxing Answering Statement and Prehearing Brief at p. 2). In his Opening Statement, Mr. Garcia adopted these arguments.

To the extent that Claimant is challenging the facial validity of USA Boxing’s 2024 Team Selection Procedures and/or specifically its team selection procedures for the World Qualification Tournament #2 included therein, the Arbitrator determines that both claims are time barred. Section 9.9 (Time Bar”) of the USOPC Bylaws expressly provides that “A claim against a respondent will be prohibited unless filed with the arbitrator no later than 180 days after the alleged date of denial and the competition that is the subject of the dispute is still upcoming.” Claimant’s Section 9 Complaint and Demand for Arbitration was filed on March 25, 2024, which is considerably more than 180 days after the April 3, 2023 written publication and effective date of USA Boxing’s 2024 Team Selection Procedures.

Even if Mr. Crocklem’s foregoing claims were not time barred, the Arbitrator recognizes that the ASA requires the USOPC to ensure “the most competent representation possible” for the U.S. in each sport and event of the Olympic Games. (36 U.S.C. § 220503(4)). USA Boxing’s 2024 Team Selection Procedures establish a “selection camp” system, which was approved by the USOPC and resulted in an increased number of U.S. boxers qualifying for and winning medals in the 2020 Tokyo Olympic Games in comparison to the previous “trials system” for selecting boxers to participate in international competitions to qualify for the Olympic Games. The increased success of Team USA boxers after USA Boxing adopted a USOPC-approved “selection camp” system proves that the 2024 Team Selection Procedures are a reasonable and effective means of furthering and achieving the USOPC’s federal statutory mandate.

During the hearing, Mr. Crocklem asserted that Respondent did not apply its 2024 Team Selection Procedures for selecting its 2024 Elite High Performance Team in a fair and transparent manner, which deprived him of an “equal opportunity . . . to participate in the selection process” for the IOC’s upcoming May 2024 World Qualification Tournament #2 in Thailand. He claimed that USA Boxing’s selection of Mr. Garcia for its 2024 Elite High Performance Team in the 63.5kg/139 lbs category was not fair and transparent for the following reasons: in the 2021 U.S. Junior National Championships 132 lbs category he defeated Mr. Garcia 4-1 in a public and independently judged boxing match; he won the 2024 Olympic Trials in the 139 lbs category in December 2023, a competition in which Mr. Garcia did not participate;

neither his boxing coach Mr. Hamilton nor his mother were permitted to attend and observe USA Boxing's January 2024 training camp and its process for evaluating boxers; the selection of Mr. Garcia rather than himself took place behind closed doors; and USA Boxing did not provide Mr. Hamilton with any requested videos of Mr. Crocklem and Mr. Garcia boxing during the January 2024 training camp.

In its Answering Statement and Prehearing Brief, USA Boxing notes that in his Section 9 complaint and request for arbitration Mr. Crocklem "does not contest the manner in which [the 2024 Team Selection Procedures] have been applied to name Emilio Garcia to the Elite Team." (p. 2). USA Boxing notes that Mr. Crocklem does not contend that its 2024 Team Selection Procedures are not facially transparent, and it contends these procedures do not lack transparency because individual boxers cannot have their own coaches and others present during a USA Boxing training camp to personally evaluate and second guess the application of the criteria by its High Performance Staff. It asserts there is no evidence that the criteria and procedures for selecting boxers for its 2024 Elite High Performance Team were not followed and pointed out that its high performance staff are judged by boxers' Olympic and international performance results; therefore, there is a disincentive to subjectively disfavor or favor any particular boxer during the evaluation process.

In his Affected Athlete Preliminary Statement, Mr. Garcia contends that the evidence "clearly shows Mr. Crocklem cannot meet his burden to show that USA Boxing breached its published selection procedures, or that its decisions were arbitrary, capricious, or lacking any rational basis" (p. 4) and cites supporting Section 9 jurisprudence. (pp. 2-3).

In *Lui and USA Table Tennis Ass'n, Inc. and Tio*, AAA Case No. 01-19-0001-4377 (June 20, 2019) (Matthew J. Mitten, Arbitrator) provides the following summary of the Section 9 jurisprudence regarding Mr. Crocklem's assertion that USA Boxing improperly applied its 2024 Team Selection Procedures:

In a Section 9 team selection dispute, it is well established that the athlete has the burden of proving by a preponderance of evidence a claimed denial of a fair opportunity to compete for selection as a member of a team that will participate in a "protected competition". . . *Tibbs v. United States Paralympics*, AAA Case No. 71 190 E 00406 12 at 14 (August 28, 2012) (citing several prior Section 9 awards). "Section 9 jurisprudence requires [the Claimant] to prove [the National Governing Body (NGB)] breached its approved and published Athlete Selection Procedures for the [protected competition],

applied them inconsistently to athletes similarly situated, acted in bad faith towards or with bias against [her], and/or violated applicable federal or state laws (e.g., Ted Stevens Olympic and Amateur Sports Act).” *Id.* See also *Komanski v. USA Cycling*, AAA Case No. 01-15-0004-9907 (Nov. 15, 2015) at 5 (adopting this substantive standard for evaluating the merits of a team selection dispute).

*Id.* at p. 17. See also *Dillon v. USA Taekwondo and Greenwood*, AAA Case No. 01-22-0003-5392 (August 23, 2022) (Christian Dennie, Arbitrator) at pp. 8-9; *Jurak v. U.S. Speedskating and Affected Athletes*, AAA Case No. 01-22-0000-1852 (January 28, 2022) (Maidie Oliveau, Arbitrator) at pp. 3-5.

Based on the record evidence, the Arbitrator finds that, as it was required to do, USA Boxing followed its approved and published 2024 Team Selection Procedures in choosing its 2024 Elite High Performance Team (and Squad) as well as that it did not apply any of its criteria arbitrarily, inconsistently, or in bad faith towards or with bias against Mr. Crocklem. Nor is there any evidence that USA Boxing applied any of its 2024 Team Selection Procedures criteria more favorably or with bias towards Mr. Garcia.

Because he failed to provide any evidence supporting this claim, the Arbitrator rejects Mr. Crocklem’s contention that USA Boxing did not apply its 2024 Team Selection Procedures in a fair and transparent manner, which deprived him of an “equal opportunity . . . to participate in the selection process” for the IOC’s upcoming May 2024 World Qualification Tournament #2 in Thailand. The Arbitrator agrees with USA Boxing that its 2024 Team Selection Procedures do not lack transparency simply because individual boxers are not permitted to have their own coaches and others (e.g., family members) present during a training camp to personally evaluate (and potentially second guess) the application of the criteria by its High Performance Staff.

Mr. Crocklem does not contend that USA Boxing’s application of its 2024 Team Selection Procedures violated any applicable federal or state laws.

In *Lui*, the Arbitrator explained:

In a Section 9 team selection dispute, “[a]rbitrators are not ombudsmen; they are authorized to resolve disputes under contracts and rules, not to declare how the world should work in the large.” *Lindland v U.S. Wrestling Ass’n, Inc.*, 227 F.3d 1000, 1004 (7<sup>th</sup> Cir. 2000). . . .

[Arbitrators] have authority only to determine whether [Claimant] had a fair opportunity to compete for a position on the [team that will compete in a protected competition] and whether [an NGB’s] Team Selection Committee used and rationally applied [its]

published [Athlete Selection Procedures]. [Their] role is not to determine whether [an NGB] “chose the best process for selecting teams” *Cameron Booth* at 19, or to substitute [their] judgment for the expert professional judgment of [an NGB] in establishing selection criteria or the Team Selection Committee in applying the criteria to individual [athletes].”

*Id.* at p. 18.

The Arbitrator rejects Claimant’s contention that, notwithstanding USA Boxing’s 2024 Team Selection Procedures, he is entitled to a box-off with Mr. Garcia to determine which one of them will compete in the 2024 World Qualification Tournament #2 because, *inter alia*, Mr. Crocklem defeated him in the 2021 U.S. Junior National Championships in the 132 lb. weight category and Mr. Garcia failed to qualify to compete in the 2024 Paris Olympic Games in the 63.5 kg/139 lbs category based on his performances in the 2023 Pan American Games and 2024 World Qualification Tournament #1. The 2024 Team Selection Procedures established a multi-week “selection camp” system, which included officiated “test matches” between Mr. Crocklem, Mr. Garcia, and other international boxers, to determine the U.S. boxer most likely to be successful in international competitions as a member of its 2024 Elite High Performance Team in the 63.5 kg/139 lbs category. Based on *Lui*, the Arbitrator has no authority to substitute a head-to-head boxer “trials system” by ordering a box-off between Mr. Crocklem and Mr. Garcia to determine USA Boxing’s entrant in the 2024 World Qualification Tournament #2 for the 63.5 kg/139 lbs category.

## DECISION AND AWARD

Based on the foregoing material facts and legal analysis, the Arbitrator decides and awards as follows:

The Arbitrator affirms USA Boxing's selection of Mr. Garcia to participate in the 2024 World Qualification Tournament #2 in the 63.5kg weight category as a member of its 2024 Elite High Performance Team and rejects Mr. Crocklem's Section 9 Complaint in its entirety.

Considering the circumstances of the case, the conduct of the parties and their representatives during the arbitration proceeding, and the result of the arbitration, the Arbitrator determines it is not appropriate to reapportion the administrative expenses and arbitrator's compensation and expenses between or among the parties pursuant to Rule 51(c) of the Arbitration Rules.

The parties shall bear their own attorney's fees and/or expenses associated with this arbitration.

This Award fully resolves all claims and defenses submitted by the parties in connection with this arbitration proceeding. All claims and defenses not expressly granted herein are denied.



June 10, 2024

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Matthew J. Mitten, Arbitrator