STEWART LLP
OCCHIPINTI
Attorneys and Counselors at Law

One Exchange Plaza
55 Broadway, Suite 1501
New York, NY 10006
tel: (212) 239-5500
fax: (212) 239-7030

USOC Hearing Panel Finds US Bowling Congress Out of Compliance with Requirements of the Ted Stevens Olympic and Amateur Sports Act and the USOC Board of Directors Places USBC on Probation

A USOC Hearing Panel has found that the US Bowling Congress, the National Governing Body for the sport of bowling in the United States, is out of compliance with the Ted Stevens Olympic and Amateur Sports Act. In accordance with the Hearing Panel's recommendation, the USOC Board of Directors, at its meeting on June 20, 2017, placed USBC on probation as an NGB for a period of six months, during which time USBC is to address its compliance issues.

The Hearing Panel members were Bill Marolt (USOC Board Member and Chair of the Panel); Glen Schorr (Executive Director of Orienteering USA and Member of the Multisport Organization Counsel) and Han Xian (Table Tennis athlete and Chair of the USOC Athletes' Advisory Council). Counsel for the Hearing Panel was Gary L. Johansen, Esq., Associate General Counsel of the USOC,

In its detailed and carefully reasoned 50-page Report, Decision and Recommendation dated June 8, 2017 (a copy of which is attached), the Hearing Panel found that USBC did not fulfill its responsibilities as an NGB as set forth in Sections 20522(a)(13) pertaining to (Grievance Procedures) and 220522(a)(8) (pertaining to "Fair Notice and Opportunity for a Hearing") of the Sports Act. In that latter regard, of particular significance is that the Hearing Panel rejected USBC's contentions that the due process protections of Section 220522(a)(8) of the Act applied only to elite athletes and can be satisfied by paper submissions.

As the Hearing Panel found and declared:

> **"The term 'Amateur athlete' [in Section 220522(a)(8) of the Sports Act] refers to *all athletes*, not just elite athletes. The reference to athletes, coaches, trainers, managers, administrators and officials [in the Act] refers to all such individuals, not just those who participate in protected competitions."** (Emphasis supplied).

As for the type of hearing that is required by the Sports Act (and as set forth in the USOC Due Process Checklist) when the NGB is considering suspending the membership or banning an individual from competing, the Hearing Panel held as follows:

"[T]he Hearing Panel finds that an in-person hearing[1] is required, meaning that the athlete, coach, trainer, manager, administrator, and official can orally agrue his or her case, present testimony if necessary, and confront and cross-examine witnesses."

The Hearing Panel also found that while Section 8.7(n) of the USOC Bylaws[2] does not specifically require a NGB to post minutes of the Board meetings on its website, the hearing Panel observed that "an NGB should be as open and transparent as possible..., and the Hearing Panel is hard pressed to find a justifiable reason for an NGB not to publish [minutes of] its Board meetings."

Wayne Hightower, Donna Hall and Lawrence Digsby, each members of US Bowling Congress and its affiliated member club, Strike Merchants LLC of New Jersey commended the USOC and the Hearing Panel for its thoroughness and diligence in evaluating and deciding their Section 10 Complaint against US Bowling Congress. Mr. Hightower, who personally attended the two –day Hearing in Colorado Springs on February 23-24, 2017 as claimants representative, said:

"This was a very difficult matter for us, in that it took a full year for us to exhaust administrative remedies internal to USBC before we were permitted to file a Section 10 Complaint before the USOC, and more than a year of proceedings (and failed mediation) before we reached the end of this matter. However, we are very pleased with the outcome achieved and the prospect that US Bowing Congress will now hopefully, at long last, come into compliance with the requirements of Federal law as set forth in the Sports Act."

The Complainants were represented by Edward G. Williams, Esq., of counsel to the NYC law firm Stewart Occhipinti, LLP. US Bowling Congress was represented by Ted A. Wisnefski, Esq., Scott C. Beightol, Esq. and Thomas A Janczewski, Esq. of the Milwaukee – based law firm Michael Best & Friedrich LLP.

For more information, please contact Edward G. Williams, Esq at Stewart Occhipinti LLP (B) (212) 239-5500; (Cell) (917) 873-3075; or email: egwilliams@somlaw.com

Dated: New York, NY
June 26, 2017

---

[1] A telephonic or video conference hearing which "allows the parties to present their case orally, to call witnesses and to cross-examine adverse witnesses" can satisfy this in-person hearing requirement. (See para 189 at pp 42-43 of the attached decision).

[2] USOC Bylaw 8.7(n) requires an NGB to"be financially and operationally transparent, and accountable to its members...."

UNITED STATES OLYMPIC COMMITTEE

HIGHTOWER, et al.,	)	
	)	
Complainants	)	
	)	REPORT, DECISION
v.	)	AND
	)	RECOMMENDATION
US BOWLING CONGRESS,	)	
	)	
Respondent.	)	June 8, 2017

I. THE PARTIES

1. Wayne Hightower, Donna Hall and Lawrence Digsby ("Complainants") are members of US Bowling Congress ("USBC").

2. USBC is the National Governing Body ("NGB") for the sport of bowling in the United States, as recognized by the United States Olympic Committee ("USOC") pursuant to the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220529) (the "Act") and Section 8 of the USOC Bylaws.

3. Complainants and USBC are collectively referred to as the "Parties".

II. COMMENCEMENT OF PROCEEDING

4. On October 29, 2015, Complainants filed a Complaint with the USOC against USBC pursuant to Section 220527 of the Act and Section 10 of the USOC Bylaws.

5. Section 220527 of the Act and Section 10 of the USOC Bylaws collectively provide that a person who belongs to an 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.

III. HEARING PANEL COMPOSITION

6. 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 Panel members are:

- Bill Marolt, Hearing Panel Chair and USOC Board Member;
- Glen Schorr, Executive Director of Orienteering USA and Member of the Multisport Organization Council ("MSOC"); and,
- Han Xiao, Table Tennis athlete and Vice Leadership of the USOC Athletes' Advisory Council ("AAC").

7. The Parties were provided with a list of Hearing Panel members by letter from Mr. Blackmun on November 18, 2015. No Party objected to the appointment of the Hearing Panel members.

8. Accordingly, the Hearing Panel was seated.

IV. COUNSEL

9. Complainants are represented by Edward G. Williams of the firm Stewart Occhipinti LLP.

10. USBC is represented by Ted A. Wisnefski, Scott C. Beightol and Thomas A. Janczewski of the firm Michael Best & Friedrich LLP.

V. REASONED DECISION

11. Pursuant to Section 10.18 of the USOC Bylaws, the Hearing Panel in a Section 10 proceeding is required to issue a reasoned decision of its findings and make a recommendation to the USOC Board of Directors.

12. This Report, Decision and Recommendation ("Decision") 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.

13. The Decision is a summary of the principal allegations, evidence, and legal positions based on the Parties' pleadings, facts adduced at the hearing, written submissions and oral arguments. Additional information relevant to the issues may also have been considered by the Hearing Panel. While the Panel has considered all the allegations, evidence and legal positions submitted by the Parties in this proceeding, it refers in its Decision only to those allegations, evidence and legal positions it considers necessary to explain its reasoning.

VI. JURISDICTION

14. The Hearing Panel has authority to hear the Complaint pursuant to Section 220527 of the Act and Section 10 of the USOC Bylaws.

VII. MEDIATION

15. Section 10.8 of the USOC Bylaws provides that the Hearing Panel may order mediation.

16. On March 8, 2016, the Hearing Panel ordered that the Parties enter into mediation.

17. Pursuant to Section 10.8 of the USOC Bylaws, Jeff Benz was appointed as Mediator/Special Master by the USOC CEO.

18. The Hearing Panel ordered that the first mediation session be conducted by April 1, 2016, and that mediation efforts be concluded by June 15, 2016. However, at

the request of the Mediator/Special Master and the Parties, the mediation period was extended until July 1, 2016, and then extended again until September 30, 2016.

19. On October 3, 2016, and October 5, 2016, Complainants and USBC, respectively, informed the Hearing Panel that mediation had proven unsuccessful.

20. At that point, the Hearing Panel proceeded with hearing the Complaint.

VIII. COMPLAINT

A. Introduction

21. Complainants filed a broad and far reaching Complaint. During the proceeding the Complaint was considerably narrowed.

22. A brief discussion of the Complaint and the issues that remain follows.

B. Original Allegations

23. The Complaint, as filed, contained five counts, each with a number of sub-counts:

(1) Count I – USBC is not in compliance with certain requirements of the Act:

(i) Section 220522(a)(13) (USBC does not provide for the prompt and equitable resolution of grievances of its members as it does not have a procedure for administering and hearing member complaints alleging that USBC it is not fulfilling its NGB responsibilities as required by the Act and USOC Bylaws);

(ii) Section 220522(a)(8) (USBC does not provide "fair notice and opportunity for a hearing" to an amateur athlete, coach, trainer, manager, administrator or official as it does not provide for an in-person hearing before declaring the individual ineligible to participate or suspending the individual's membership);

(iii) Section 220522(a)(4)(B) (USBC fails to submit to arbitration controversies involving the opportunity of amateur athletes, coaches, trainers, managers, administrators or officials to participate in amateur athletic competition as its bylaws state that USBC members are bound by decisions of USBC); and,

(iv) Section 220522(a)(2) (USBC is unable to execute its obligations as an NGB).

(2) Count II – USBC is not in compliance with certain requirements of the USOC Bylaws:

(i) Section 8.7(n) (USBC is not operationally transparent or accountable to its members as it fails to post its Board minutes on its website or otherwise make its Board minutes available to its members);
(ii) Section 8.7(n) (USBC is not financially transparent or accountable to its members as it fails to post its IRS Form 990s on its website);
(iii) Section 8.7(s) (USBC has failed to post its IRS Form 990s on its website for the three most recent years); and,
(iv) Section 8.7(a) (USBC fails to fulfill its responsibilities as an NGB as it is in violation of Sections 220522(a)(13), 220522(a)(8) and, 220522(a)(4)(B) of the Act).

(3) Count III – USBC has failed to comply with the USOC's Good Governance Guidelines:

(i) USBC's Board is not between 7 and 12 members and does not have 20% independent directors;
(ii) USBC is not financially and operationally transparent and accountable to its membership and the USOC; and,
(iii) USBC fails to comply with the requirements for USOC membership as set forth in the Act, the USOC Bylaws and the policies set forth in the Governance Guidelines.

(4) Count IV – USBC has failed to follow its own Bylaws:

(i) Article IV, Section A (USBC's Board exceeds the size designated under its Bylaws); and
(ii) Article II, Section D.3.e. (USBC does not provide fair notice and an opportunity for a hearing when suspending an individual's membership athlete or declaring an individual ineligible to participate).

(5) Count V – USBC has failed to set forth certain provisions in its Bylaws or otherwise substantiate compliance with certain NGB obligations or USOC policies set forth in the USOC Bylaws:

(i) Section 8.7(c) (USBC has failed to develop a strategic plan);
(ii) Section 8.7(g) (USBC has failed to establish written procedures for selection of athletes to the Pan Am Games);
(iii) Section 8.7(h) (USBC has failed to conduct a process for selection of athletes to the Pan Am Games);
(iv) Section 8.7(i) (USBC has failed to recommend athletes to the USOC for participation in the Pan Am Games);
(v) Section 8.7(j) (USBC has failed to establish a plan for successfully training Pan Am athletes);

(vi) Section 8.7(k) (USBC has failed to comply with anti-doping policies);
(vii) Section 8.7(l) (USBC has failed to comply with safe sport procedures); and,
(viii) Section 14.6 (USBC has failed to elect athletes to the USOC Athletes' Advisory Council).

C. Motion to Dismiss

24. On December 18, 2015, pursuant to Section 10.12 of the USOC Bylaws USBC filed a Motion to Dismiss all five Counts of the Complaint. Complainants filed a brief in Opposition to the Motion on January 29, 2016. USBC filed a Reply on February 19, 2016. Oral argument on the Motion was heard on March 1, 2016.

25. A ruling on the Motion to Dismiss was postponed during the Parties efforts to mediate their dispute. When mediation proved unsuccessful, the Hearing Panel turned its attention to the Motion.

26. On December 1, 2016, the Hearing Panel rendered its decision on the Motion to Dismiss.

27. The Hearing Panel granted the Motion to Dismiss in part and denied it in part. As to Counts I and II, the Motion was denied, leaving the Complainants' allegations in place. The Motion was granted as to Counts III, IV and V, so those claims were dismissed from the case.[1]

D. Withdrawal of Claims

28. On December 15, 2016, Complainants withdrew one claim under Count II pertaining to Section 8.7(s) of the USOC Bylaws, which required USBC to post its Form 990s on its website for the three most recent years (referenced in Paragraph 23 as Count

[1] The reasoning for the Hearing Panel's decision is set forth in detail in its December 1, 2016, Decision and Order.

II - (iii)). The reason for the withdrawal was that subsequent to the filing of the Complaint USBC posted its Form 990s for the past three years.

29. On February 13, 2017, Complainants withdrew two claims under Count I. The first pertained to Section 220522(a)(4)(b) of the Act relating to USBC's failure to submit matters to arbitration (referenced in Paragraph 23 as Count I - (iii)). The second pertained to Section 220522(a)(2) of the Act relating to USBC's inability to fulfill its obligations as an NGB (referenced in Paragraph 23 as Count I - (iv)). Complainants also withdrew their claim under Count II, pertaining to Section 8.7(n) of the USOC Bylaws relating to USBC's financial transparency (referenced in Paragraph 23 as Count II - (ii)).

IX. OTHER PRE-HEARING MATTERS

A. Motion for Summary Judgment

30. On October 5, 2016, Complainants filed a Motion for Summary Judgment.

31. The Hearing Panel heard from both Complainants and USBC on the Motion.

32. On December 1, 2016, the Hearing Panel denied Complainants' Motion for Summary Judgment.[2]

B. Answer

33. On January 3, 2017, USBC filed an Answer to the Complaint.

34. USBC denied the allegations set forth in the Complaint and responded with particularity as to the various claims asserted by Complainants.

[2] The reasoning for the Hearing Panel's decision is set forth in detail in its December 1, 2016, Decision and Order.

C. Exchange of Information

35. On January 18, 2017, Complainants advised the Hearing Panel that they sought discovery.

36. Section 10.15 of the USOC Bylaws provides that the Hearing Panel may direct the production of documents and other information either on its own directive or at the request of a party.

37. Accordingly, on January 19, 2017, the Hearing Panel set forth a discovery schedule.

38. On February 10, 2017, Complainants filed a Motion to Compel the production of certain documents.

39. USBC filed an Opposition to the Motion on February 13, 2017. Complainants filed a Reply on February 13, 2017.

40. The Hearing Panel heard argument on the Motion on February 15, 2017. The sole issue before the Hearing Panel was the production of USBC Board minutes as the Parties had reached an agreement regarding the other documents requested.

41. The Hearing Panel issued a ruling on the Motion to Compel on February 15, 2017, ordering the production of USBC Board minutes.

42. USBC complied with the ruling.

D. Pre-Hearing Order

43. On January 19, 2017, the Hearing Panel issued a Pre-Hearing Order. The Order confirmed the hearing date for February 23 and 24, 2017. The Order also set forth deadlines for the filing of pre-hearing briefs, the submission of exhibits and the disclosure

of witnesses. Further, the Order set forth procedures for having the hearing recorded by a stenographer, if requested by a Party.

44. The Parties followed the scheduling set forth in the Pre-Hearing Order. USBC determined to have the hearing recorded by a stenographer and made arrangements to do so.

X. BURDEN OF PROOF

45. Section 10.17 of the USOC Bylaws provides that a complainant has the burden of proof. Accordingly, Complainants are required to establish by a preponderance of the evidence that USBC does not meet the requirements of the Act and USOC Bylaws.

XI. HEARING

46. On February 23 and 24, 2017, the Hearing Panel held a hearing on Complainant's claims in Colorado Springs, Colorado.

47. Each Party submitted a pre-hearing brief, which was considered by the Hearing Panel.

48. At the commencement of the hearing, USBC filed two preliminary motions. The first was a Motion for Default. USBC argued that as two of the Complainants were not present at the hearing, the Section 10 case should be dismissed as Complainants had defaulted.

49. Complainant Hightower responded that he was present and that he was designated as the representative of the other two Complainants, Hall and Digsby. Further, it was represented that Hall and Digsby would make themselves available by conference call if USBC wished to call them as witnesses.

50. After listening to argument, the Hearing Panel denied USBC's Motion that the Complainants were in default.

51. Second, USBC made a Motion to Proceed Prior to Complainants, or in other words, to allow it to present its case first. This Motion was based on Complainants not listing Hightower, Hall and Digsby on Complainants' witness list, nor listing anyone else except for adverse witnesses. Therefore, USBC alleged that Complainants had no case to present. USBC argued that the Hearing Panel should allow USBC to first explain why it was in compliance with the Act and USOC Bylaws before allowing Complainants to respond.

52. Complainants argued that they were prepared to proceed, that the burden of proof fell on them, and that they could present their case by calling adverse witnesses. They reiterated that USBC could call Complainants as witnesses if it wanted, but that USBC could not upend the normal hearing process by going first.

53. After listening to argument, the Hearing Panel denied USBC's Motion to Proceed Prior to Complainants.

54. The Parties then made opening statements.

55. The Parties submitted numerous exhibits as documentary evidence, all of which were admitted into evidence. During the course of the hearing, the Hearing Panel also requested certain documents from USBC, which were also admitted into evidence.

56. Complainants called three witnesses in the following order:

- Thor Lundgren – USBC Party Designee;
- Michael Spridco – USBC Senior Director of Rules and Bonding; and,
- Jason Overstreet – USBC Deputy Executive Director.

57. USBC called two witnesses in the following order:

- Jason Overstreet – USBC Deputy Executive Director; and,
- Thor Lundgren – USBC Party Designee.

58. Each Party was afforded the opportunity to cross-examine the witnesses. The Hearing Panel also questioned the witnesses, pursuant to the authority granted them by Section 10.17 of the USOC Bylaws.

59. The Parties also made arguments on various issues that arose during the hearing.

60. As further provided by Section 10.17 of the USOC Bylaws, the Hearing Panel did not strictly enforce the rules of evidence. The rules of evidence were applied as generally accepted in administrative proceedings.

61. At the close of Complainants' case, USBC made a Motion for Directed Verdict.

62. After listening to argument, the Hearing Panel denied the Motion.

63. At the close of the hearing each Party gave a closing statement.

XII. DECISION

A. Background

64. As previously discussed, there are four claims remaining in the Complaint. Briefly stated, they are:

(1) Claim 1 – USBC is not in compliance with Section 220522(a)(13) of the Act in that it does not provide for the prompt and equitable resolution of grievances of its members as it does not have a procedure for administering and hearing member complaints alleging that USBC is not fulfilling its NGB responsibilities as required by the Act and USOC Bylaws;
(2) Claim 2 – USBC is not in compliance with Section 220522(a)(8) of the Act in that it does not provide "fair notice and opportunity for a hearing" to an amateur athlete, coach, trainer, manager, administrator or official as it does

not provide for an in-person hearing before declaring the individual ineligible to participate or suspending the individual's membership;

(3) Claim 3 – USBC is not in compliance with Section 8.7(n) of the USOC Bylaws in that it is not operationally transparent or accountable to its members as it fails to post its Board minutes on its website or otherwise make minutes of its Board meetings available to its members;

(4) Claim 4 – USBC is not in compliance with Section 8.7(a) of the USOC Bylaws in that it fails to fulfill its responsibilities as an NGB as it is in violation of Sections 220522(a)(13) and 220522(a)(8) of the Act.[3]

65. Each of the claims will be discussed in turn.

B. Claim 1: Section 220522(a)(13) – Grievance Procedures

(a) Complainants' Contentions

66. Complainants allege that USBC is in violation of Section 220522(a)(13) of the Act by failing to provide "procedures for the prompt and equitable resolution of grievances of its members." Specifically, Complainants contend that USBC does not have a procedure for administering and hearing internal grievances filed by its members for USBC's alleged non-compliance with the Act and USOC Bylaws.

67. In support of their position, Complainants refer to their internal grievance filed against USBC dated October 30, 2014.

68. First, Complainants indicate that prior to filing their internal grievance they attempted to determine the procedure that would be utilized by USBC in handling the grievance. Complainants contend that they could find no such procedure in USBC's Bylaws or policy manuals. Complainants assert that they could not find the procedure because none exists.

[3] This is a derivative claim, in that it is based on USBC's failure to fulfill its responsibilities under the Act.

69. Second, Complainants contend that when they did file their internal grievance with USBC, it merely made up a process for handling the grievance. Complainants contend that the process utilized did not comply with the Act as it was not "prompt" or "equitable."

(b) USBC's Response

70. First, USBC answers that it does have a procedure for handling internal grievances filed against it, stating that such grievances are handled pursuant to Article X, Section A. of its Bylaws. That Article states:

> USBC provides for due process when any:
> ***
> 2. Individual or entity charges USBC with a violation of the requirement of the USOC Constitution or Bylaws, the USBC Articles of Incorporation or Bylaws, or rules and regulations, including but not limited to general playing rules, league rules, or tournament rules, that are adopted, endorsed, or referenced by USBC....[4]

71. Second, USBC asserts that the process set out in its Bylaws was supplemented by its National Policy Manual and its Legal and Legislative Policy Manual. As USBC states in its pre-hearing brief:

> USBC publishes procedures in its [National] Association Policy Manual and elsewhere explaining the process of filing a complaint against USBC members. When a USBC member files a complaint against USBC itself, the USBC follows those same procedures....

72. Third, USBC contends that Complainants' internal grievance was administered, heard and denied by USBC, and that any deficiency in the proceeding was caused by Complainants' own action.

[4] The USOC no longer has a Constitution.

(c) Background and Comment

73. An understanding of Complainants' allegation requires an explanation regarding the interplay between Section 220527 of the Act and Section 220522(a)(13) of the Act. Those two Sections must be read in conjunction with each other.

74. Section 220527 allows for grievances against NGBs.[5] Specifically, 220527(a)(1) provides that a person who is a member or eligible to be a member of an NGB may file a complaint with the USOC seeking to compel the NGB to comply with its NGB requirements. However, Section 220527(b)(1) restricts the filing of such complaints. Before a Section 10 complaint can be filed with the USOC, the complainant must first exhaust all available administrative remedies.[6] Thus, a complainant may not file a Section 10 complaint with the USOC until the matter has first been heard by the NGB. Accordingly, an NGB must have a process available to its members for administering and hearing grievances against it. Thus, Section 220522(a)(13) requires that an NGB have a complaint process that, among other things, allows a member to exhaust his or her administrative remedies. Otherwise, a member could never fulfill his or her exhaustion requirement.

75. In filing their October 30, 2014, internal grievance with USBC, Complainants were attempting to get USBC to address a number of alleged shortcomings. However, they also understood, as evidenced in their Complaint, that if

[5] Section 220527(a)(2) states that the USOC "shall establish procedures for the filing and disposition of [a] complaint under" Section 220527. The USOC has established such procedures in Section 10 of its Bylaws. Thus, complaints filed pursuant to Section 220527 are commonly referred to as Section 10 complaints.

[6] Section 220527(b)(1) of the Act provides an exception to the exhaustion requirement if "it can be shown by clear and convincing evidence that [exhausting] those remedies would have resulted in unnecessary delay."

they did not obtain the relief they were requesting, and they wished to pursue the matter by filing a Section 10 complaint with the USOC, they had to exhaust their administrative remedies as required by Section 220527(b)(1) of the Act.

76. What transpired after Complainants filed their October 30, 2014, internal grievance with USBC is necessary to an understanding of Complainants' claim.

77. On December 18, 2014, more than a month after the internal grievance was filed, USBC responded by letter from Chad Murphy, USBC Executive Director. Murphy provided a detailed response to the internal grievance, denying the allegations and indicating why USBC was in compliance with the Act and USOC Bylaws.

78. In Murphy's letter, he states:

> USBC respectfully declines, in part, to grant the relief that you seek because it is unwarranted given that USBC has and continues to comply with the requirements of the USOC Bylaws, the Act, and all other federal and state laws.[7]

79. Murphy went on to state:

> I believe that I have satisfactorily answered your questions and addressed your concerns. If, however, you are dissatisfied with this response, you may seek to have the USBC Legal and Legislative Committee further address your Grievance. Please advise if you would like me to forward your Grievance directly to the Legal and Legislative Committee for further action. You yourself may also forward your Grievance and any additional materials directly to the Legal and Legislative Committee at USBC, Attn: Chairperson Tamara Adams, 621 Six Flags Drive, Arlington, Texas 76011.

[7] Murphy stated "in part" because he indicated that USBC would "continue to take all steps necessary to ensure that its Board of Directors and staff comply with the requirements for NGBs as set forth in the Act, the USOC Bylaws, Policies, and Governance Guidelines, and USBC's own Bylaws."

80. Complainant Hightower responded in a letter dated January 22, 2015, in which he acknowledged receipt of Murphy's letter. Hightower stated he and his fellow Grievants "presently intend to accept your invitation to have the USBC Legal and Legislative Committee address the denial of all aspects of our Grievance against USBC."

81. Hightower then stated that "before we pursue our Grievance directly with the USBC Legal and Legislative Committee" we wish to clarify a misconception USBC has with regard to the internal grievance, provide USBC with further information, and request that USBC provide Grievants with certain information.

82. Hightower closed by saying:

> Once we receive your responses to the above, we will consider our next step, which most likely will include accepting your invitation, even though not set forth in any USBC procedures, to have your December 18, 2014, denial of our Grievance reviewed by the USBC Legal and Legislative Committee. You might also explain, in your reply to this letter, why you did not refer our Grievance to the USBC Legal and Legislative Committee, in the first place.

83. On February 12, 2015, Hightower again wrote to Murphy asking for a reply to his January 22, 2015, letter. Hightower ended the letter by saying:

> If you do not provide a full and complete response by February 19 (a week from today) my fellow Grivants (sic) and I will have no choice but to consider pursuing other paths to obtain the relief we seek.

84. Murphy responded on February 19, 2015, asking for written confirmation from the other two Grievants that Hightower was "authorized to represent them and speak on their behalf."

85. Sometime prior to February 24, 2015, Hall and Digsby responded to Murphy affirming that they were Grievants in the matter and that Hightower was authorized to speak on their behalf.

86. Hightower followed up in a February 24, 2015, letter to Murphy, again asking for a response to his January 22, 2015, letter. Hightower concluded by saying:

> In your response, please explain if there is any reason why we should believe that a further review and consideration of our Grievance by the USBC Legal and Legislative Committee, would result in any response different from what you provide, in your capacity as the Executive Director of USBC.

87. On March 4, 2015, Murphy responded to Hightower's January 22, 2015, letter, again refuting Grievants' claims. Murphy ended his letter as follows:

> Finally in the last sentence of your letter, you ask why I did not refer your "Grievance" to the USBC Legal and Legislative Committee. I responded to your Grievance as the Executive Director of USBC because you specifically addressed your Grievance to my attention. You never requested that the USBC Legal and Legislative Committee address your Grievance. Indeed, I was the first to suggest as much.
>
> Having again answered your questions and addressed your concerns, many of which are purely hypothetical, I will be taking no further action at this time with respect to your Grievance. As I previously explained, you may forward your 'Grievance' to the USBC Legal and Legislative Committee if you so desire.

88. Hightower responded on March 6, 2015, again asking for information from USBC.

89. Murphy responded on March 6, 2015, via email indicating that he was closing communications regarding Hightower's information request and stating:

> The next step is for you to decide if you would like to move the conversation to our volunteer leadership which is our Legal and Legislative committee.

90. Hightower responded by letter dated March 13, 2015, stating:

> I want to make one thing clear: USBC does not have a procedure, published or otherwise, to process Grievances, such as ours, against USBC. That, indeed, is one of the aspects of our Grievance. In that

> regard, ***you*** made the determination on how to process our Grievance. We prepared our Grievance against USBC and sent it to you, as Executive Director, for disposition. We did not ask or direct you how the Grievance was to be handled; ***you*** choose to do so. And you, in your capacity as the Chief Executive Officer of USBC...have denied our Grievance in all material respects. Now you advise that you, as Executive Director of USBC, will have nothing more to do with the Grievance, and that we must now decide if we want to "move the conversation [forward] to USBC's Legal and Legislative Committee." We will consider doing so.

91. On March 19, 2015, Hightower sent a letter to Michael Spridco, USBC Senior Director of Rules and Bonding, enclosing a copy of the October 30, 2014, internal grievance as well as all the correspondence between Hightower and Murphy. Hightower requested that the Legal and Legislative Committee "advise, after consideration, if it disagrees with and of the denials of our Grievance by USBC Executive Director..., and if so how."

92. On April 17, 2015, Hightower, having not received a response to his March 19, 2015, letter again wrote to Spridco, seeking a reply.

93. Spridco responded on April 20, 2015, stating that:

> The USBC Legal & Legislative Committee is in receipt of the grievance and will be deciding the issue soon. You will have a response shortly after they make their decision.

94. On April 30, 2015, Andrew Cain, USBC President, sent a letter to Complainants indicating:

> Your appeal of the decision of the USBC Executive Director to deny your Grievance was recently considered by the United States Bowling Congress Legal Committee at a hearing.
>
> It was the decision of the Legal and Legislative Committee that your appeal be denied. The Committee agrees with and affirms the reasoning and conclusions that the USBC Executive Director reached with respect to you (sic) Grievance.

95. The recitation above indicates one important thing. Both Complainants and USBC failed in effectively communicating with each other as to the process for having the internal grievance heard. Complainants seemed more focused on making demands for information and seeking admissions. They did not make a specific request for the hearing procedure or inquire of the process.

96. USBC seemed content with denying the allegations of the internal grievance and defending itself.

97. Instead of having a meaningful discussion as to how to move forward, both sides engaged in a letter writing campaign aimed at putting the other at a disadvantage.

98. The Hearing Panel finds the actions of both Complainants and USBC disappointing. For Complainants, a simple request to have the internal grievance heard was in order. For USBC, a simple processing of the internal grievance was required. Neither happened.

(d) Discussion and Analysis

99. The issue before the Hearing Panel is whether USBC has a procedure for administering and hearing internal grievances mandated by Section 220522(a)(13) of the Act.

100. In addressing this issue, in addition to Article X, Section A. of USBC's Bylaws, cited in Paragraph 70, the Hearing Panel reviewed other provisions in USBC's Bylaws relating to USBC's grievance process. Article II, Section D.3.k. of USBC's Bylaws repeats the language in the Act, stating that USBC "[p]rovides procedures for the prompt and equitable resolution of grievances of its members."

101. Article II, Section D.3.b.1. of USBC's Bylaws also states that USBC "[a]grees to submit to binding arbitration in any controversy involving…[i]ts recognition as a National Governing Body…."

102. From a review of the Bylaws, although they state that USBC will have a grievance procedure and that due process will be provided in such procedure, they provide no indication of the actual process or procedure that will be utilized to handle such grievances.

103. In addition to USBC's Bylaws, the Hearing Panel reviewed USBC's National Policy Manual.

104. The National Association Policy Manual contains a section entitled "External Policy #4 – Due Process." However, as best the Hearing Panel can determine, External Policy #4 does not set forth a procedure for handling grievances filed against USBC for USBC's alleged non-compliance with the Act and USOC Bylaws.

105. External Policy #4 has a grievance process to be employed for complaints concerning an individual's opportunity to participate in protected competition, but does not explain how a complaint against USBC would be handled.

106. Finally, the Hearing Panel reviewed USBC's Legal and Legislative Policy Manual. Here again, there was no mention of a process for hearing grievances filed against USBC. Instead, the Legal and Legislative Policy Manual focused on actions brought against members for rule violations and athletes seeking to participate in protected competitions.

107. It is also important to note that although USBC staff and members of the Legal and Legislative Committee had USBC's Legal and Legislative Policy Manual, it

was not posted on USBC's website, nor does it appear to have been publicly available to USBC's members.[8]

108. Further, the Legal and Legislative Policy Manual was not made available to Complainants upon the filing of their October 30, 2014, internal grievance. Complainants did not become aware of its existence until the hearing when it was referred to and produced by USBC.

109. Thus, the Hearing Panel in its review finds that USBC has no published procedure indicating how Complainants' internal grievance would be handled.

110. Further, the events surrounding Complainants' internal grievance do not give any comfort to the Panel that a standard procedure was in place. It seems that USBC made up how to proceed as the matter progressed.

111. Upon a question from Hearing Panel member Glen Schorr, Deputy Executive Director Jason Overstreet, testified as follows:

> The grievance was reviewed by multiple staff members and a staff level review hearing took place, and the grievance was denied when an invitation to appeal to the legal and legislative committee for additional review, which is the standard process for all of our tracks, staff level hearing review, elevate to additional review at a board level with appropriate composition from our stakeholders.

112. Upon a follow-up question from Hearing Panel member Han Xiao, Overstreet testified as follows:

> So there's the first hearing, if you will...that was responded to under the name of our executive director with the additional hearing of the legal committee, which is outside volunteers, not staff, including athlete

[8] During the second day of the hearing Jason Overstreet testified that USBC's Legal and Legislative Policy Manual was just posted on USBC's website that day. Overstreet stated, "There's nothing to hide in that document and so we are more than happy to be transparent and put it out there."

> representation, that is welcome and all the grievant need to do is to signal that that review was requested and then that additional level of review takes place.

113. Other than telling Complainants that the internal grievance could be referred to the Legal and Legislative Committee, USBC provided no further information as to the hearing process.

114. Also, if there was a process, it appears that USBC was uncertain of what it was or did not follow it. Instead, USBC purportedly engaged in some internal review of the matter by its Executive Director. This review was then considered a hearing. As President Cain stated in his April 30, 2015, letter, cited in Paragraph 94, Complainants' internal grievance was reviewed and denied by USBC's Executive Director.

115. USBC's handling of Complainants' internal grievance raises a number of issues. First, The Act and USOC Bylaws requires twenty percent athlete representation on hearing panels. That did not occur here as the decision was made by the Executive Director.

116. Second, as the Hearing Panel can best determine from the evidence presented, Complainants were never informed that USBC's Executive Director would serve as the decision-maker.

117. Third, a grievance against USBC that is heard by USBC's Executive Director is fraught with conflict of interest and partiality issues.

118. Fourth, Complainants were never informed when the hearing was to take place. Nor were Complainants provided an opportunity to offer argument or present evidence, either through testimony or documents, as to the basis for their claims.

119. Finally, the matter was sent to USBC's Legal and Legislative Committee, as an "appeal" of the Executive Director's decision. The Legal and Legislative Committee purportedly held a hearing and denied the appeal, but there is no evidence that Complainants were notified of when the hearing was to take place (or after the fact when the hearing took place), or invited to offer argument or present evidence. Neither were Complainants informed who on the Legal and Legislative Committee heard the appeal, or if the entire Committee heard the appeal. In fact, there were no communications from the Legal and Legislative Committee to the Complainants. One would have expected that Complainants would have been notified of the appeal procedures, who was sitting on the appeal panel and when the appeal hearing would take place. The Legal and Legislative Committee did not even inform Complainants of its decision, which instead was communicated to Complainants by USBC's President in his April 30, 2015, letter, cited in Paragraph 94.[9]

120. When the internal grievance was filed, it should have been immediately referred to the Legal and Legislative Committee. Complainants should have been provided with the names of the panel members, should have been advised of the hearing date and should have been allowed to present their case. USBC should have directed its defense to the hearing panel. After the hearing panel heard the case, a decision should have been rendered, with reasons for the decision. Regarding Complainants' internal grievance, none of this happened.

[9] The Hearing Panel finds it curious that the Legal and Legislative Committee, the body that purportedly heard the matter, did not communicate its decision, but instead relied on USBC's President to do so.

121. An NGB's procedure for hearing internal grievances do not have to be lengthy or complex. In fact, simple straightforward procedures are best. However, there must be a procedure, it must be published, it must be stated in a way that can be easily understood, and it must be followed. Only then can a member know how to file an internal grievance and hold the NGB to the grievance process if not followed. USBC needs to determine what its process is for handling internal grievances, publish that process and be committed to follow it going forward.

122. The Hearing Panel finds that USBC does not have a process, or if it has one, it was not followed in dealing with Complainants' internal grievance. Accordingly, the Hearing Panel finds that USBC is not in compliance with Section 220522(a)(13) of the Act.

C. Claim 2: 220522(a)(8) – Opportunity for Hearing

(a) Complainants' Contention

123. Complainants allege that USBC is in violation of Section 220522(a)(8) of the Act by failing to provide "fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate." Specifically, Complainants allege that not all members of USBC are provided with an opportunity for an in-person hearing prior to suspension of their membership or being barred from competing (participation cases).

124. Complainants contend that under the Act an individual who is subject to suspension or losing his or her opportunity to participate is entitled to the full panoply of due process rights. This includes the right to orally present one's case in-person.

125. Complainants assert that this standard has been applied by the USOC since passage of the Act.

126. Complainants allow, however, that hearings can be conducted telephonically, and still meet in-person standards. Complainants refer to Section 9 cases,[10] which involve participation rights, where arbitrators have historically held telephonic hearings. Complainants contend that the important factor is that a party have the opportunity to present oral argument, testify and examine witnesses as to the facts of the case, not that all parties convene in the same physical location.

(b) USBC's Response

127. First, USBC asserts that, as set forth in Articles III and X of its Bylaws, it provides for a hearing with due process safeguards for all its members.

128. However, USBC explains that that those due process safeguards only include an in-person hearing for certain individuals: (i) those classified as "amateur athletes" and (ii) athletes, coaches, trainers, managers, administrators and officials who participate in protected competitions.

129. USBC's position is that to determine who comes within the framework of an "amateur athlete," one must look at Section 220501(b)(1) of the Act. That Section defines "amateur athlete" as "an athlete that meets the eligibility standards established by the national governing body...for the sport in which the athlete competes."

130. USBC indicates that as the NGB for bowling, it defines "amateur athletes" (those meeting its eligibility standards) as a select group of elite athletes. USBC states

[10] Section 9 cases refer to cases filed pursuant to Section 9 of the USOC Bylaws allowing an athlete, coach, trainer, manager, administrator or official to file for arbitration regarding an alleged denial of their opportunity to participate.

that athletes meeting this elite category are set forth in Article IX, Section B. of its Bylaws. That Section states:

> Section B. Athlete Qualifications
> The term "Athlete" is defined in this section for purposes of these Bylaws. To be considered an "Athlete", an individual must be at least 18 years of age, and meet the qualifications of at least one of the two following constituencies:
>
> 1. Team USA Athletes - Within the preceding 10 years, the individual has been a member of Team USA and has represented the United States in the Olympic or Pan American Games, or an Operation Gold event, or a World Championship recognized by FIQ; or
> 2. Actively Engaged Athletes - One year prior to appointment, those individuals who have demonstrated active engagement in amateur bowling competition by finishing in tournaments as follows:
>   a. For open or women's National championship tournaments conducted by USBC, the top five percent of all amateur finishers based upon the combined list of participants in the All Events event from each of the divisions in the order in which the participants scored;
>   b. For the Team USA Team Trials and National Junior Gold championship tournaments conducted by USBC, the top 50% of all amateur male finishers and of all amateur female finishers.

131. USBC allows, however, that an NGB does not have "carte blanche" to set any standard. Otherwise an NGB could set a standard that would exclude all athletes, affording no athlete an in-person hearing. In order to provide some parameter as to the standard that an NGB could set, USBC states that an NGB must comply with the minimum standards established by the USOC. USBC contends that those minimum standards are set forth in USOC Bylaw Section 8.8.2(c). That Section sets forth requirements for 20 percent athlete representation on an NGB's board and designated committees. The pool of athletes meeting the requirements of Section 8.8.2(c) are elite athletes.

132. As to other athletes, coaches, trainers, manager, administrators, or officials, USBC's position is that the class of individuals included under Section 220522(a)(8) of the Act would be those athletes, coaches, trainers, managers, administrators or officials who participate in "protected competitions" as that term is defined in Section 1.3 of the USOC Bylaws.

133. Second, USBC asserts that the legislative history of the Act supports its position. USBC cites to certain language in the House Judiciary Report, relating to the powers given to the USOC, that:

> [The section of the Act detailing the powers of the USOC] is intended to give the USOC broad powers to enable it to conduct its business. It is, however, the intent of the committee to limit the parameters of those powers to concerns which directly involve international (rather than domestic) amateur athletic competition.[11]

134. Third, USBC contends that the practical consequence of Complainants' position is untenable. USBC states that it is a membership organization with approximately 1.49 million members. USBC asserts that over ninety-nine percent of these members are recreational bowlers. USBC states that granting an in-person hearing to all individuals suspended from membership or denied an opportunity to participate would be prohibitive.

135. USBC bolsters this contention by alluding to an interpretation of in-person hearing that would require the parties to travel to a mutually satisfactory location to have the case heard. USBC contends that not only would this be time consuming, but would also be extraordinarily expensive.

---

[11] H.R. Rep. No. 95-1627, at 14 (1978).

136. Finally, USBC asserts that due process can be met without holding an in-person hearing. USBC's position is that fundamental fairness is provided by affording an individual notice of the charge and allowing for written submissions.

(c) Complainants' Reply

137. Complainants call USBC's position "dead wrong."

138. First, Complainants maintain that USBC's position is a tortuous reading of Sections 220522(a)(8) and 220501(b)(1) of the Act and makes no sense when closely examined. Complainants state that USBC's attempt to limit those individuals who are covered under Section 220522(a)(8) by referring to Section 220501(b)(1), which speaks of eligibility standards, is an incorrect reading of the Act. Complainants also assert that USBC's further attempt to utilize USOC Bylaw Section 8.8.2(c), which defines those athletes who are eligible to sit on an NGB's board and designated committees, as the benchmark for determining who is covered under Section 220522(a)(8) of the Act is an argument invented merely to fit USBC's purpose.

139. Complainants state in their pre-hearing brief:

> [W]hat Section 220501(b)(1) actually states is that an NGB may establish "eligibility standards" that individuals must meet in order to compete in the sport, as long as such eligibility criteria "related to amateur status, or to participation in the...Pan American Games" are not more restrictive than those of the NGB's International Federation.
>
> Section 220501(b)(1) does not say that an NGB can deny the due process rights of "amateur athletes" (or anyone else) under Section 220522(a)(8) by using the definition of "athlete" an NGB uses in its bylaws...to determine which of its athletes meets the 20% athlete representation requirement to sit on an NGB's Board.

140. Complainants further contend that USBC's reasoning is equally as faulty when USBC attempts to limit those who are afforded in-person hearings to individuals

who participate in "protected competitions." Complainants point out that since coaches, trainers, managers, administrators and officials are not mentioned in Section 220501(b)(1) of the Act, USBC has to devise another way to deal with them. Complainants assert that USBC's attempt to use "protected competition" as a defining criterion as to whom is afforded an in-person hearing is not supported anywhere in the Act or USOC Bylaws. Complainants question why the framers of the Act would use two entirely different standards in applying the coverage of Section 220522(a)(8). Also, Complainants point out that athletes also participate in protected competitions, so now athletes would be afforded an in-person hearing under two different methods, being defined as an amateur athlete under 220501(b)(1) of the Act or having competed in a protected competition.

141. Second, Complainants contend that any reading of the Act must take into account past practices of the USOC in applying the Act to NGBs. Specifically, Complainants point to what is commonly referred to as the Due Process Checklist. Complainants contend that the Checklist has been adopted and applied, either formally or informally, to complaints coming under the purview of Section 220522(a)(8) of the Act. Complainants cite *Salk v. United States Sailing, Inc.*, AAA 77 190 E 00297 08 (Jul. 31, 2008) (Christopher L. Campbell, Arb.) for this proposition.[12] Complainants recite that provision of the Checklist that provides that a respondent in a complaint proceeding shall have "[t]he right to call witnesses and present oral and written evidence and argument."

[12] Although not cited by Complainants, *Hall v. US Sailing, Ass'n.*, Decision (Feb. 20, 2009) (Nina Kemppel, Scott Fortune, Robert Mitchell, Jeanne Picariello & Ron Van Pool, Pnl. Mbrs.) also refers to the Due Process Checklist.

142. As to USBC's contention that applying Section 220522(a)(8) to all of its members would be prohibitive, Complainants respond:

> USBC says that 99% of its members are not entitled to the due process protections of Section 220522(a)(8) of the Sports Act. Yet each of them are eligible to (and in fact do) participate in "amateur athletic competition" (league and tournament games sanctioned by USBC). As such, they are entitled to the same due process protections as their brother and sister bowlers who are eligible, on account of the 10 year rule, to sit on the USBC Board.

143. Finally, Complainants disagree with USBC that merely allowing for written submissions satisfies the hearing requirement of Section 220522(a)(8) of the Act. Complainants contend that an individual must have the opportunity to testify, to call witnesses and to confront and cross-examine adverse witnesses in order to verify his or her version of the incident and to be able to fairly and completely present his or her case.

(d) Discussion and Analysis

144. As stated above, the issue before the Hearing Panel is whether USBC must provide for an in-person hearing to all athletes (not just those classified as elite athletes or participating in protected competitions) and to all coaches, trainers, manager, administrators and officials (not just those participating in protected competitions).

145. However, before delving into that question, the Hearing Panel wishes to make two comments regarding USBC's internal grievance process.

146. First, the evidence presented during the hearing, and the reading of USBC's Bylaws and other documents, make clear that USBC has a comprehensive administrative process for dealing with internal grievances, that it deals with an extensive array of issues, and that the process is readably available to its members.

147. USBC's administrative process covers many levels. It authorizes its member associations to hear matters at the local level. These proceedings are governed by USBC's Association Policy Manual. USBC also has a Rules Department that hears internal grievances. Finally, matters may be appealed to USBC's Legal and Legislative Committee.

148. USBC handles a variety of issues through this administrative process, including, by way of example, nonpayment of USBC membership dues, nonpayment of league fees, infringement of game playing rules, inaccurate submissions of bowling averages, improper conduct or disciplinary matters and selection issues for national and international teams.

149. Finally, any USBC member may file an internal grievance asserting that another member has failed to comply with the USBC Bylaws or USBC Playing Rules.

150. USBC is to be commended on the extent and availability of this process.

151. Second, it should be recognized that USBC does provide an opportunity for an in-person hearing in some instances. In-person hearings are afforded to elite athletes. Also, if an individual alleges that he or she is being denied the opportunity to participate in a protected competition, like the Pan American Games, USBC allows for an in-person hearing. The individual may present oral evidence, testify, call witnesses, and cross-examine adverse witnesses.

152. Turning to the issue before it, the concern is whether USBC can have two separate hearing processes. One would allow for an in-person hearing for elite athletes as defined by USBC and for athletes, coaches, trainers, manager, administrators and officials who participate in protected competitions. The other process would apply to all

other individuals and would not provide for an in-person hearing. The question is when an individual is subject to loss of membership or may be barred from participation, is it allowable, fair or contemplated under the Act to separate individuals into two groups, one that gets the full panoply of due process protections and the other that does not.

153. In consideration of this issue, the Hearing Panel first reviewed USBC's governing documents, including USBC's Bylaws, USBC's National Policy Manual and USBC's Legal and Legislative Policy Manual.[13]

154. Article II, Section D.3.e. of USBC's Bylaws state that USBC:

> Provides...fair notice and opportunity for hearing to any amateur athlete coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate....[14]

155. Article III, Section A.3. of USBC's Bylaws states that membership in USBC:

> [m]ay be suspended or revoked by the Board (or any Committee delegated such authority by the Board) by a majority vote following due process if a member is found to have violated any USBC, state, or local association bylaws, policies, procedures, playing rules or other requirements. Due process does not require an in person hearing.

156. Article X, Section A.1. of USBC's Bylaws states that USBC provides due process when any:

> [m]ember, including any Athlete, is charged with a violation of any USBC regulation or requirement which could result in full or partial forfeiture of participation privileges or in other disciplinary action whether undertaken by USBC or a chartered state or local association;

---

[13] The Hearing Panel found it somewhat confusing to mesh all of these documents into one coherent hearing process, setting forth in concise and clearly understandable terms how a hearing would be conducted. Often these documents refer to due process requirements, but do not explain the process or procedure utilized in administering a complaint.

[14] This provision, as well as the others listed in Article II, Section D. of USBC's Bylaws, recites the requirements stated in Section 220522 of the Act for recognition as an NGB.

157. Article X, Section B. of USBC's Bylaws provides:

> In matters involving members, including bowlers or amateur athletes, coaches, trainers, managers, administrators, or officials, representing the United States in National or International competition or participating in that competition, and in matters involving league or tournament competition or suspension of membership other than for non-payment of dues, due process may include notice, hearing, expedited hearing, decision, and appeal, all as provided in written policies approved by the Board of Directors. Whether an in person hearing is made available and the location of any such hearing is a matter of discretion with USBC.

158. Section 2.B. of External Policy #4 of USBC's National Policy Manual states that:

> Due process will be provided any athlete, coach, trainer, manager, administrator or official filing a grievance regarding his/her opportunity to participate in, or attempt to qualify for selection to participate in a protected competition.
>
> a. Deny Opportunity to Compete. Any athlete who alleges that he/she has been denied an opportunity to compete in any national or international bowling competition shall notify the USBC Executive Director in writing. The rights granted under this section shall equally apply to any coach, trainer, manager, administrator, or other official seeking to participate in any national or international bowling competition.
> b. Athlete. For use in this chapter an athlete will be defined as an individual who is participating in a protected competition.
> c. Protected Competition. "Protected competition" means any amateur athletic competition between any athlete or athletes officially designated by the appropriate Olympic, Pan American or Paralympic Sports Organization member as representing the United States, either individually or as part of a team, and any athlete or athletes representing any foreign country where:
>
> 1) The terms of such competition require that the entrants therein be teams or individuals representing the respective nations; and
> 2) The athlete or group of athletes representing the United States are organized and sponsored by the appropriate Olympic, Pan American or Paralympic Sports Organization member in accordance with a defined selection or tryout procedure that is open to all and publicly announced in advance, except for domestic amateur athletic competition, which, by its terms, requires that entrants therein be expressly restricted to members of a specific class of

> amateur athletes such as those referred to in Article VII, Section 4 of the USOC Constitution.
>
> The term "protected competition" shall also include any domestic amateur athletic competition or event organized and conducted by an Olympic, Pan American or Paralympic Sports Organization member in its selection procedure and publicly announced in advance as a competition or event directly qualifying each successful competitor therein as an athlete representing the United States in a protected competition as defined in the immediately preceding sentence of this Section.

159. USBC's Legal and Legislative Policy Manual recites Section X of USBC's Bylaws and Section 2.B. of External Policy #4 of USBC's National Policy Manual.

160. Of course, the issue presented in this case rests on an analysis of Section 220522(a)(8) of the Act. That Section states that an NGB must provide:

> fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate;

161. In reviewing Section 220522(a)(8) two issues are presented. First, what class of athletes and what class of coaches, trainers, managers, administrators and officials does Section 220522(a)(8) cover? Does "any amateur athlete" include all athletes, or just elite athletes? Are all athletes, coaches, trainers, managers, administrators and officials covered, or just those who participate in protected competitions?

162. Second, what kind of hearing must an NGB provide when the complaint involves loss of membership or a denial of an opportunity to participate? Can an NGB have different processes for different classes of individuals? Must the hearing allow for oral arguments and witness testimony, or can it be limited to written submissions?

163. As to the first question, the Hearing Panel finds that amateur athlete does not just refer to elite athletes as USBC contends. Nor does the reference to athletes, coaches, trainers, managers administrators and officials only refer to those individuals competing in protected competitions.

164. Unfortunately, there is no legislative history on the interpretation to be given to Section 220522(a)(8) of the Act. Thus, the words must be taken as they would commonly be interpreted.[15] If there was an intent to limit the definition of amateur athlete or of coaches, trainers, managers, administrators and officials to a specific subset of individuals, Section 220522(a)(8) would have made that evident and clear.

165. Looking at the plain language of Section 220522(a)(8), there appears to be a deliberate inclusion of the word "any" prior to the list of amateur athletes, coaches, trainers, managers, administrators and officials. That one qualifier leads to a reasonable interpretation that all individuals were contemplated to be afforded with the same protections. "Any" athlete does not mean *some* athletes.

166. Further, if each NGB is given unfettered authority to determine who is covered under Section 220522(a)(8), then each NGB could selectively limit those individuals who have the right to an in-person hearing to a very small subset of its members. It would make no sense for the Act to require protections for athletes, coaches, trainers, managers, administrators and officials, but then allow NGBs to limit or do away with those protections for the vast majority of those individuals.

[15] *See Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) ("With any question of statutory interpretation, the court's analysis begins with the plain language of the statute.").

167. Additionally, USBC's attempt to limit Section 220522(a)(8) by applying Section 220501(b)(1) is not a logical reading of the Act. The two Sections do not fit together, and USBC's attempt to utilize one to define the other appears to be an argument invented for the convenience of this proceeding.

168. First, such a reading requires two different theories of inclusion: one for elite athletes (individuals eligible to sit on USBC's board and designated committees) and another for individuals who participate in protected competitions. Section 220522(a)(8) doesn't provide latitude for NGBs to pick and choose different standards to apply for inclusion.

169. Second, regarding athletes, USBC's Bylaws, USBC's National Policy Manual and USBC's Legal and Legislative Policy Manual do not comport with USBC's argument. USBC states that by virtue of Section 220501(b)(1), it is allowed to define those athletes who are included under Section 220522(a)(8), and that it does so by applying Article IX, Section B. of USBC's Bylaws, which is the provision identifying the class of athletes eligible to sit on USBC's Board and designated committees. However, the above-cited documents do not say that. Those documents never mention Article IX, Section B., nor do they define covered individuals as athletes who are eligible to sit on USBC's Board or designated committees.

170. Having minimum qualification standards to sit on an NGB Board is vastly different than being afforded with due process protections when one's membership or opportunity to participate in a competition is at stake.

171. Finally, even accepting USBC's rationale, the definition of "amateur athlete" in Section 220501(b)(1) does not make sense today when applied to Section

220522(a)(8). At the time of passage of the Act in 1978, in most sports, only amateur athletes were allowed to participate in international competitions, including the Olympic and Pan American Games. Professional athletes were, for the most part, excluded. Thus, sports had distinct rules defining whether an athlete was classified as amateur or professional. Those rules differed from one sport to the next. Also, an athlete classified as a professional in one sport could be classified as an amateur in another sport, even if their circumstances were similar. Thus, Section 220501(b)(1) allowed for NGBs to account for these differences by defining those athletes who were eligible to compete in the sport based on the rules of the International Federation.[16] The concept of only allowing only amateur athletes to compete, and excluding professional athletes, is now primarily a thing of the past. The concept of "eligibility" today more realistically applies to qualification standards, a time or other standard an athlete must meet in order to qualify for participation in a competition, such as the Olympic, Paralympic or Pan American Games or Parapan American Games. Trying to utilize Section 220501(b)(1) to limit the applicability of Section 220522(a)(8) is an attempt to utilize Section 220501(b)(1) for a purpose that was not intended.

172. For the reasons stated above, all athletes and all coaches, trainers, managers, administrators and officials must be treated equally and afforded with the same type of due process protections when membership and participation in competitions are in question. Under Section 220522(a)(8) of the Act, NGBs cannot categorize individuals

[16] One restriction applied, however, as set forth in Section 220522(a)(14) of the Act. NGBs could not establish "eligibility criteria related to amateur status or to participation in the Olympic Games, the Paralympic Games, or the Pan American Games that are more restrictive than those of the appropriate international sports federation."

into separate classes and provide them with different hearings depending on which class they fall. Amateur athlete refers to all athletes, not just to elite athletes. The reference to athletes, coaches, trainers, managers, administrators and officials refers to all such individuals, not just those who participate in protected competitions.

173. The second question before the Hearing Panel is the type of hearing contemplated under Section 220522(a)(8). Is an NGB required to provide an in-person hearing, or will a hearing based on the written submissions of the parties suffice?

174. As to this question, the Hearing Panel finds that an in-person hearing is required, meaning that the athlete, coach, trainer, manager administrator and official can orally argue his or her case, present testimony if necessary, and confront and cross-examine witnesses.

175. Although neither the Act nor its legislative history provides direct guidance, the word "hearing" must be viewed as commonly understood. A hearing is generally interpreted as "[a]ny setting in which an affected person presents arguments to a decision-maker." *Hearing*, *Black's Law Dictionary* (10th ed. 2014). The act of a *person* who *presents* arguments entails more than submitting them on the papers.

176. Further, in examining this issue the Hearing Panel also looked to guidance from the courts. First, as the U.S. Supreme Court has stated, a fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Armstrong v Manzo*, 380 U.S. 545, 552 (1965). It is a serious matter when a member is suspended from membership or loses an opportunity to participate in a competition. The member should have an opportunity to present his or her case in a "meaningful" way before the decision maker. That demands more than just allowing a

written submission. It necessitates an oral hearing so that all of the facts can be presented and considered.

177. Further, commencing with *Goldberg v. Kelly*, 397 U.S. 254 (1970) (holding that only a pre-termination evidentiary hearing provides a welfare recipient with procedural due process), courts have attempted to define what type of procedural protections should be afforded to parties in administrative hearings.[17]

178. In *Mathews v Eldridge*, 424 U.S. 319 (1976), a successor case to *Goldberg*, the Supreme Court set forth a balancing test to evaluate the sufficiency of particular procedures when applied to specific situations.[18] Three factors were set forth:

> First, the private interest that will be affected by the official action; second the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.[19]

179. In considering these factors, the Hearing Panel first looked at the interest affected by USBC's action. USBC's members are confronted with either a loss of membership in USBC or are prohibited from competing in USBC sanctioned or approved competitions. As stated earlier, this is a serious matter. Stripping an individual of his or her membership in an NGB has grave consequences. It basically deprives the individual

---

[17] The Hearing Panel fully understands that *Goldberg* and the line of cases that follow from it concern due process considerations emanating from the Fifth and Fourteenth amendments to the Constitution, and thus are applied to governmental entities or state actors. USBC is neither a governmental entity nor considered to be a state actor. However, the Panel finds that the reasoning applied by the courts can serve as a roadmap, and is instructive and worth consideration, for determining what due process protections must be afforded to an individual under Section 220522(a)(8) of the Act.

[18] This balancing test was also utilized in a Section 9 case where the arbitrator was attempting to determine what standard of proof to apply. *Merson v. USA Triathlon*, AAA 01 14 0001 6464 (May 28, 2015) (Edward T. Colbert, Arb.).

[19] 424 U.S., at 335 (citation omitted).

of further involvement in the sport. Denying an individual of the opportunity to participate likewise takes away the individual's opportunity to compete in the sport. Participating in competitions may also be the basis for one's income, and stripping individuals of their ability to make money could hinder their livelihood. Whether it be a coach's job, or prize money for a competitor, there can be substantial financial implications and hardships when taking away the ability to participate.

180. Second, the Hearing Panel considered the fairness and reliability of USBC's procedures that only allow for written submissions versus the value of holding an in-person hearing. Here, the Hearing Panel considered the circumstances that would cause an individual to either lose his or her membership or be banned from competition. The key questions would be what occurred and what the individual's involvement was. These are factual questions, not legal ones. Although USBC allows written submissions, the Hearing Panel believes that they are an inadequate substitute for oral presentations when presenting factual information. To effectively challenge factual allegations, an individual needs to be able to present his or her testimony, to call collaborating witnesses, and to cross-examine adverse witnesses. This is the most able method to assess credibility and obtain the truth. Further, written submissions do not allow for the "flexibility of oral presentations" or permit an individual to "mold his argument to the issues the decision maker appears to regard as important." *Goldberg*, 397 U.S. at 269. How individuals instinctively respond in the moment versus how a calculated written document is delivered are key distinctions that need to be taken into consideration.

181. Also, the Hearing Panel is reminded of the obligations the Act and the USOC Bylaws place on NGBs to have fair and reliable hearing processes. To ensure

evenhandedness in decisions, Section 220522(a)(10) of the Act (along with Section 8.8.1 of the USOC Bylaws) requires all hearing panels to be composed of at least twenty percent athletes. Further Section 220522(a)(13) of the Act requires NGBs to have procedures for the "equitable" resolution of grievances. Additionally, Section 220522(a)(4) of the Act requires that NGBs must submit to arbitration on matters relating to their recognition as an NGB and to the opportunity of an individual's opportunity to participate.

182. Third, the Hearing Panel considered the administrative and monetary burdens that would be placed on USBC by providing an in-person hearing. This is a valid concern. USBC states that it hears thousands of matters each year, and it would be impossible for it to hold in-person hearings in each of these cases. USBC also states that requiring parties to convene in a common physical location would be financially prohibitive in terms of travel and other costs.

183. However, the Hearing Panel believes that this burden is exaggerated. First, when referring to the number of cases it hears, USBC failed to differentiate between cases involving suspension of membership and loss of an opportunity to participate, and those that did not.

184. During the hearing, USBC often referred to impracticality of holding in-person hearings for foot faults and non-payment of dues. Foot faults and like-matters concerning game calls are field of play issues. Field of play decisions are matters determined during the competition by a referee and are not reviewable or subject to post-game hearings. Those types of complaints are outside the purview of the hearings that are required to be provided for under Section 220522(a)(8). Non-payment of dues are

straightforward, either the dues have been paid or not. Unless there was some factual allegation at issue, there would be no reason to convene an in-person hearing for dues matters.

185. Further, testimony during the hearing indicated that only 50 to 60 cases per year involve suspensions or restrictions of participation, not thousands.

186. Additionally, USBC acknowledged that the number of cases involving elite athletes has been minimal. As USBC stated in its pre-hearing brief:

> In the history of the USBC, only four amateur athletes have ever faced suspension, all stemming from the same incident. Under those particular circumstances, those four amateur athletes chose to waive their right to a hearing and accepted the penalties against them.

187. Also, while Section 220522(a)(8) is clear that an NGB has to provide an "opportunity" for a hearing, it does not require USBC to convene an in-person hearing for every case. Not all situations will result in-person hearings. In some situations, an individual may determine to resolve the matter informally, prior to having any hearing. In other situations, the individual may be satisfied with having the case heard through written submissions. Just because an individual has an opportunity to request an in-person hearing does not mean that in all instances every individual will do so.

188. Thus, even considering that USBC may have thousands of cases, not all of those cases are of the sort that require or will result in an in-person hearing.

189. Secondly, USBC's concern of expense is to some extent centered on having all of the parties convene in a common physical location. However, in-person hearings do not require that all parties convene in the same location. Modern technology allows for these matters to be conducted via telephone or video conferencing. Section 9 cases filed pursuant to the USOC Bylaws are held telephonically in most instances. The

important aspect is that telephonic hearings allow the parties to present their case orally, to call witnesses and to cross-examine adverse witnesses.

190. To be clear on this point, the Hearing Panel considers a hearing held via telephone or video conferencing to be an in-person hearing, and meets the requirements of Section 220522(a)(8) of the Act.

191. Finally, it is worth pointing out that during the hearing, USBC indicated that Section XII of the Legal and Legislative Policy Manual currently allows an individual to request an in-person hearing.[20] However, the ultimate decision as to whether an in-person hearing is held falls within the discretion of the Legal and Legislative Committee. No evidence was presented during the hearing as to the number of in-person hearings that were requested and denied or granted. However, the point is that USBC already provides for the possibility of holding in-person hearings for all members. It just does not allow an individual to have an in-person hearing as a matter of right, if so requested. It appears to the Hearing Panel that taking this additional step will not be so burdensome on USBC as to render its hearing process dysfunctional.

---

[20] Section XII states:

> XII. Personal Appearances
>
> It is the general policy of the USBC that complainants and defendants are not provided the opportunity to appear before the Legal Committee or Staff Review Panel.
>
> If complainants or defendants ask for personal appearance, staff is to determine why the appearance has been requested.
>
> If either complainants or defendants have additional information, staff will explain that they can submit the material in writing for inclusion in the file.
>
> If facts are in dispute, case may be referred to the local association for a hearing or USBC may conduct a fact-finding hearing.
>
> Complainants or defendants may submit an appeal if staff denies a personal appearance.

192. Finally, the Hearing Panel took special note of a discussion by the court in *Gray Panthers v. Schweiker*, 652 F.2d 146 (1980) concerning the policy interests in allowing oral hearings. There the court stated:

> The tendency to require oral hearings has become so automatic that judicial opinions often devote little discussion to the reasons why our society adheres, in this day of computers and sophisticated print media, to the notion that a right to a personal oral exchange can be a critical element of justice.[21]

193. The court then went on to delineate three societal goals served by oral hearings. They are: 1) the desire for accuracy, 2) the need for accountability and 3) the necessity for a decision-making procedure which is perceived as fair. Id.

194. In discussing each of these goals, the court stated as to the first that:

> [A]n oral hearing provides a way to ensure accuracy when facts are in dispute, especially if credibility is an issue....Even if credibility is not likely to be directly in issue, personal oral hearings are an effective way to eliminate misunderstandings and focus issues. Ambiguities which are not readily apparent on the face of a document can be disclosed and clarified with a few moments of oral exchange between the individual and the decision maker.[22]

195. As to the second goal, the court indicated that due process safeguards, including oral hearings "also serve as an institutional check on arbitrary or impermissible action". Id. at 162. The court went on to say that:

> An oral hearing requirement thus serves to ensure that decision makers recognize that their decisions affect the lives of human beings, a fact that is often obscured by a jumble of papers....[23]

196. Finally, as to the third goal, the court stated:

> A third and perhaps most important reason for generally insisting upon an oral hearing is that no other procedure so effectively fosters a belief that

[21] Id. at 161.
[22] Id. at 161-162.
[23] Id.

one has been dealt with fairly, even if there remains a disagreement with the result.[24]

197. The Hearing Panel believes that these three principles especially apply to hearings conducted by NGBs when the NGB is taking away an individual's membership or barring an individual from competing. The interest to be served in providing for an in-person oral hearing is much greater than any added burden on the NGB.

198. Accordingly, the Hearing Panel finds USBC not in compliance with Section 220522(a)(8) of the Act by not providing an opportunity for an in-person hearing for its members when suspending membership or barring an individual from competing.

D. Claim 3: Section 8.7(n) – Posting Board Meeting Minutes

199. Complainants allege that USBC is in violation of Section 8.7(n) of the USOC Bylaws, which requires that an NGB be "operationally transparent" to its members. Specifically, Complainants allege that USBC does not meet this requirement because it does not post minutes of its Board meetings on its website.

200. USBC admits that it does not post its Board meeting minutes on its website. However, USBC asserts that the plain reading of Section 8.7(n) does not require an NGB to post its Board meeting minutes.

201. During the hearing, USBC also provided testimony that it will provide excerpts of meeting minutes if requested by a member and provided such material is not of a confidential nature.

202. Further, USBC also provided evidence that it keeps its members informed of its activities in a variety of ways. Those include holding national conventions, live streaming convention meetings to members who cannot attend and hosting jamborees

[24] Id.

with its State Associations. Additionally, USBC pointed out that it publishes an annual report, which contains, among other things, information from its leadership, a convention report, financial materials and event results. Further, USBC stated that it publishes a newsletter for its members.

203. Complainants' allegation that USBC is not "operationally transparent" is premised on one factor, that USBC does not post its Board minutes.

204. Complainants fail to provide evidence or even make the attempt to show that USBC, other than not posting Board minutes, was deficient in keeping its members informed of its activities.

205. Thus, Complainants' allegation that USBC is not meeting its obligations as an NGB as set out in Section 8.7(n) rests solely on an interpretation of that Section. Put simply, the Hearing Panel must decide whether Section 8.7(n) requires an NGB, and in this case USBC, to post its Board minutes on its website.

206. Section 8.7(n) of the USOC Bylaws states that an NGB shall "be financially and operationally transparent and accountable to its members...." Section 8.7(n) does not mention or refer to an NGB's obligation to post Board meeting minutes.

207. Also, Section 8.7(n) can be contrasted with two sections of the USOC Bylaws that specifically require the posting of certain documents. Section 8.7(r) requires that an NGB "post on its website its current bylaws and other organic documents." Section 8.7(s) requires that an NGB "post on its website its audited financial statements for the three most recent years." In those sections, the USOC was specific as to what needed to be posted. The obligation to post was clearly and unambiguously stated. That directive is specifically lacking in Section 8.7(n).

208. Accordingly, the Hearing Panel finds that the plain reading of Section 8.7(n) does not require USBC to post its Board meeting minutes.

209. This is not to say that a complainant in a Section 10 proceeding is precluded from including the failure to publish Board meeting minutes, among a litany of other information failures, as a basis for a violation of Section 8.7(n). Failure to publish Board meeting minutes would be one piece of evidence among many. In such a case, all the evidence would need to be evaluated to determine if an NGB is conducting itself in an operationally transparent manner. However, that is not the case here. Complainants' claim is limited and specific: since USBC doesn't post its Board meeting minutes, it is in violation of Section 8.7(n).

210. Additionally, the Hearing Panel wishes to make the following comment. Although Section 8.7(n) does not require the posting of Board meeting minutes, the Hearing Panel believes that it is a best practice to do so. An NGB should be as open and transparent as possible. In order for an NGB to promote a harmonious and good relationship with members, the members should be informed of what the Board is doing. One of the best ways to accomplish this is for an NGB to publish Board meeting minutes. Matters of a sensitive nature, such as litigation or employment issues, can be conducted in executive session. Thus, details of those discussions can be excluded from minutes that will be made public.

211. The Hearing Panel is hard-pressed to find a justifiable reason for an NGB not to publish its Board minutes.

E. Claim 4: Section 8.7(a) – Failure to Fulfill NGB Responsibilities

212. Complainants allege that USBC is not in compliance with Section 8.7(a) of the USOC Bylaws, which states that an NGB must fulfill its responsibilities as set forth in the Act. Complainants claim that USBC is in violation of Sections 220522(a)(13) (grievance procedures) and 220522(a)(8) (opportunity for a hearing) of the Act.

213. USBC of course disagrees.

214. Any claim of non-compliance of Section 8.7(a) is derivative of Complainants' other allegations. Since the Hearing Panel has ruled that USBC is in violation of Sections 220522(a)(13) and 220522(a)(8) of the Act, no further discussion is needed here.

215. Accordingly, the Hearing Panel finds that USBC is not in compliance with Section 8.7(a) of the USOC Bylaws.

XIII. RECOMMENDATION

216. 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.

217. Pursuant to Section 220527 of the Act and Sections 10.18 - 10.20 of the USOC Bylaws, if a Hearing Panel finds an NGB not in compliance it may recommend: 1) that the recognition of the NGB be revoked or 2) that the NGB be placed on probation for a period up to 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-month probationary period.

218. As set forth in this Decision, the Hearing Panel finds that USBC is meeting its requirements relating to Section 8.7(n) of the USOC Bylaws.

219. However, the Hearing Panel finds that USBC is not meeting its NGB requirements relating to Sections 220522(a)(13) and 220522(a)(8) of the Act and Section 8.7(a) of the USOC Bylaws. However, the Hearing Panel believes that USBC can meet the challenges before it by rectifying its internal grievance procedures.

220. Therefore, the Hearing Panel recommends that USBC be placed on probation for a period of six months.

221. Additionally, the Hearing Panel requests that the USOC Membership Working Group assist USBC to revise its internal grievance procedures. The Hearing Panel requests that the USOC Membership Working Group report to the Hearing Panel on an ongoing basis as the Membership Working Group considers advisable.

222. USBC shall report to the Hearing Panel in forty-five day intervals on its progress in addressing its compliance issues commencing September 29, 2016.

223. The Hearing Panel will retain continuing jurisdiction over this matter and after six months report back to the USOC Board on USBC's progress in coming into compliance.

XIV. USOC BOARD ACTION

224. This Decision 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.

225. The Hearing Panel finds that USBC is meeting its NGB requirements under Section 8.7(n) of the USOC Bylaws relating to the posting of its Board minutes.

226. Further, the Hearing Panel finds that:

1) USBC is not in compliance with Section 220522(a)(13) of the Act in that it does not provide for the prompt and equitable resolution of grievances of its members as it does not have a procedure for administering and hearing member complaints alleging that USBC is not fulfilling its NGB responsibilities as required by the Act and USOC Bylaws;
2) USBC is not in compliance with Section 220522(a)(8) of the Act in that it does not provide "fair notice and opportunity for a hearing" to an amateur athlete, coach, trainer, manager, administrator or official as it does not provide for an in-person hearing before declaring the individual ineligible to participate or suspending the individual's membership;
3) USBC is not in compliance with Section 8.7(a) of the USOC Bylaws in that it fails to fulfill its responsibilities as an NGB as it is in violation of Sections 220522(a)(13) and 220522(a)(8) of the Act.

227. Accordingly, the Hearing Panel requests that the USOC Board adopt the Hearing Panel's findings.

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

Dated this 8th day of June, 2017.

FOR

Bill Marolt, Chair

Glen Schorr, Panel Member
Han Xiao, Panel Member