AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

AAA Case No. 01-16-0002-3596

JANESSA BEAMAN
Claimant,
v.

USA SHOOTING,
Respondent.

COREY COGDELL-UNREIN,
ASHLEY CARROLL,
KAYLE BROWNING-THOMAS,
KIMBERLY BOWERS,
CHEYENNE WALDROP,
MIRANDA WILDER,
VICTORIA BURCH-CARPENTER,
SAMANTHA SMITH,
ALICIA DALE,
EMILY UNDERWOOD,
EMILY HAMPSON,
ELLIE RODITIS,
GRACE HAMBUCHEN,
Potentially Affected Athletes.

FINAL REASONED AWARD AND DECISION

Pursuant to the American Arbitration Association's ("AAA") Commercial Arbitration Rules ("AAA Commercial Rules"), pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 USC 22501, *et seq*. and the United States Olympic Committee ("USOC") Bylaws, an evidentiary hearing was held by telephone, for 13.25 hours, on July 14, 2016, before the duly appointed arbitrator Jeffrey G. Benz ("the Arbitrator"). The Arbitrator, having been duly sworn, and having duly heard the proofs, arguments, witness testimony, and allegations of the parties, does hereby render its full award pursuant to its undertaking to do so within the time required under the relevant rules, as follows:

I. INTRODUCTION

1.1 This case involves the application of application of certain general standards as

well as certain competition rules that were argued as affecting the final result or potential disqualification of one competitor in one event in the USA Shooting Olympic team selection process.

1.2 The Arbitrator views this case as a clear one under applicable principles of law and equity involving the inability of anyone to challenge field of play decisions, except on very limited grounds which were not present here, save for through the applicable post-event review process provided under the applicable rules that were not invoked here. Accordingly, the Arbitrator rules in favor of the Respondent.

1.3 Counsel and the parties in this case proceeded very professionally and the case was well-briefed, for which the Arbitrator is thankful.

II. THE PARTIES AND THE PROCEDURAL HISTORY

2.1 Claimant Janessa Beaman ("Claimant" or "Ms. Beaman") is an elite US shooting athlete of international caliber.

2.2 Respondent USA Shooting ("Respondent" or "USAS") is the USOC-recognized national governing body ("NGB") for the sport of cycling in the United States. USAS is also recognized as the United States member of the ISF, the international federation for the sport of shooting worldwide that is recognized as such by the International Olympic Committee.

2.3 A number of "affected athletes", as that term is defined in USOC Bylaws Section 9, were identified and given notice of these proceedings (as set forth in the caption above). Only Corey Cogdell-Unrein ("Ms. Cogdell-Unrein") elected to participate in these proceedings in person and through counsel. Ms. Cogdell-Unrein had been selected by USAS to be nominated to the 2016 US Olympic Team. Ms. Cogdell-Unrein is an accomplished shooter, having medaled in the Olympic Games, and the 2016 Olympic Games would be her third time in attendance.

2.4 Ms. Beaman filed her USOC Bylaws Section 9 Complaint for Arbitration on June 15, 2016.

2.5 On June 23, 2016, the Arbitrator held a preliminary hearing conference call with the parties and issued the following pre-hearing order:

> *"The parties appearing through counsel, both Claimant and Respondent, participated in a preliminary hearing call with the Arbitrator, Jeffrey G. Benz, on June 27, 2016. As a result of that call, appearing counsel, and later the later appearing counsel for Mr. Cogdell-Unrein, were tasked with meeting and conferring on certain matters to accomplish an efficient procedure in this action as more fully set forth below:*
>
> *1. The hearing in this matter is set for July 14, 2016, in the headquarters offices of the United States Olympic Committee in Colorado Springs, CO. The*

exact address and building entry procedures and logistics shall be provided to all parties in a separate email. The hearing will commence at 9am MT and continue that day until finished.

2. The parties have agreed to the following briefing schedule:

a. USA Shooting and Ms. Cogdell-Unrein shall submit their answers and responsive briefing to the demand for arbitration and opening papers of Ms. Beamon by 5pm PT on July 6, 2016. The affected athletes, pursuant to their separate notice, shall also submit their written intention to appear and any written argument they would like to present by this deadline in accordance with the requirements of the notice to appear.

b. Claimant shall submit her reply (if any) by 5pm PT on July 11, 2016, which shall be limited to responding to the submissions of the other parties.

c. No other or further submissions or briefing shall be made.

3. When the parties submit their briefing, it is expected that they will identify all witnesses they intend to have testify in their case in chief, and they will produce at the same time as well all documents they intend to rely upon at the hearing. The Claimant shall be required to produce these items by 5pm PT on July 5, 2016.

4. The AAA shall cause a copy of this order as well as the arbitration demand of the Claimant and the heretofore agreed upon and approved notice to affected athletes by email to all parties as of the date of this Order.

5. All documents created by the parties for this arbitration shall also be submitted electronically to the arbitrator in MS Word format. The parties shall bring 2 copies of their respective submissions in printed form to the hearing for use by 1) the Arbitrator, and 2) any testifying witness. All such documents should be printed double spaced, side tabbed, and inserted in d-ring notebooks if they cannot otherwise be neatly stapled or attached to each other.

6. These proceedings shall be conducted in accordance with the AAA' Commercial Arbitration Rules unless otherwise agreed by the parties and the Arbitrator.

7. Please ensure that all communications to the Arbitrator are also copied to all counsel, all appearing affected athletes, and the AAA, as well as to the following people at the USOC: Gary Johansen, Esq., Kacie Wallace, Esq., and Sara Clark, Esq."

2.6 On June 23, 2016, Ms. Beaman filed an Amended Complaint and Demand for Arbitration ("Amended Complaint"). In her Amended Complaint, Ms. Beaman sought the following relief:

"that Corey-Cogdell-Unrein be removed from [sic] US Olympic Shooting Team

for th eWomen's Trap Event and be replaced by Ms. Ashley Carroll, with Ms. Bemam [sic]. Ms. Beaman further requests that Mr. Waldron be banned from participating as a coach at the 2016 Rio Olympic Games."

At the hearing, Ms. Beaman's counsel confirmed they were seeking an award of costs and attorneys' fees.

2.7 On July 1, 2016, notice was sent to the potentially affected athletes as jointly agreed upon by all parties and the USOC as follows:

"NOTICE TO AFFECTED ATHLETES

To the following Affected Athletes:

Corey Cogdell-Unrein
Ashley Carroll
Kayle Browning-Thomas
Kimberly Bowers
Cheyenne Waldrop
Miranda Wilder
Victoria Burch-Carpenter
Samantha Smith
Alicia Dale
Emily Underwood
Emily Hampson
Ellie Roditis
Grace Hambuchen

You have been named as a potentially affected athlete in a proceeding brought by Ms. Janessa Beaman against USA Shooting filed in the American Arbitration Association ("AAA"), pursuant to Section 220522(a)(4)(B) of the Ted Stevens Olympic and Amateur Sports Act (the "Sports Act") and Section 9 of the USOC Bylaws. A copy of Ms. Beaman's Amended Complaint is attached, which provides details of the claim against USA Shooting. A hearing has been set by the AAA on Ms. Beaman's claim for ***July 14, 2016 in Colorado Springs, Colorado****. Further details of the logistics of the proceeding (exact location, call-in number, etc.) shall be forthcoming.*

As a potentially affected athlete, you have the right to participate as a party in the hearing but are not required to do so. If you choose to participate, you may do so in person at the hearing or by telephone and with or without counsel, or a representative of your choice. However, having now been given notice of the Arbitration and Hearing and your right to appear and participate as a party, ***you shall be bound by the results of the arbitration regardless of your decision to appear****, either by yourself or by a representative, in the arbitration proceeding.*

Any affected athlete who intends to appear in this matter and wishes to file any

responsive document must communicate such intention and provide documentation to the undersigned at the AAA ***by 5:00 p.m. (PST) on July 6, 2016****. You should also copy the following individuals on any correspondence:*

. . .

While you will be provided the opportunity to present your position, and may be represented by counsel, though that is not mandatory, the Arbitrator will expect that the redundant and cumulative argument and evidence be limited given the short time frame in this case. Accordingly, the affected athletes who intend to appear will be encouraged to coordinate their cases to ensure an efficient presentation.

Should you wish to obtain independent information concerning your rights under the Sports Act and/or the USOC Bylaws concerning this arbitration, you may wish to contact the ***USOC Athlete Ombudsman, Mrs. Kacie Wallace, or the USOC Assoc. Athlete Ombudsman, Ms. Sara Clark,*** *at 719-866-5000 or by emailing Mrs. Wallace at kacie.wallace@usoc.org or Ms. Clark at sara.clark@usoc.org.*

Sincerely,

Jen Mora
American Arbitration Association
45 E River Park Place W, Suite 308, Fresno, CA 93720
T: 559 490 1862
F: 855 433 3046
www.adr.org"

USAS filed its answer to the Amended Complaint, as well as a motion to dismiss, on July 6, 2016, requesting the following relief: "that the Complaint be dismissed", "that the relief requested by Ms. Beaman be denied and that the results of the U.S. Olympic Trials for Shooting in Women's Trap as finalized and announced by USA Shooting be upheld and allowed to stand", and "an assessment of costs against Claimant, including an award of attorney's fees and arbitration costs incurred by USA Shooting in this arbitration proceeding.".

2.8 Ms. Cogdell-Unrein filed her response to the Amended Complaint on July 6, 2016, requesting the following relief: "that Claimant's Section 9 Complaint must be denied". At no time did she request an award of her attorney's fees and arbitration costs.

2.9 Because of sudden illness onset, the Arbitrator was forced to do the hearing by telephone call instead of in person and notified the parties of same on July 11, 2016, requesting the parties to advise if as a result of this they would prefer a new arbitrator. The parties opted to proceed with the telephonic hearing on July 14, 2016.

2.10 On July 12, 2016, Ms. Beaman filed her combined reply to the answer and

response of USAS and Ms. Cogdell-Unrein.

2.11 On July 14, 2016, a 13.5 hours evidentiary hearing was held by telephone. At the conclusion of the hearing, all parties and counsel acknowledged that they had been given a full and fair opportunity to present their respective case.

2.12 On July 15, 2016, the Arbitrator issued his dispositive or operative award without reasons, by email, within the time requested, as follows:

> *"The following constitutes my dispositive decision in this case. The fully reasoned award will follow.*
> *1. The Demand and Amended Demand of Ms. Beamon are dismissed and denied in their entirety.*
> *2. The fees of the AAA and the compensation of the Arbitrator shall be borne by Ms. Beamon.*
> *3. Ms. Beamon shall make a contribution toward the legal fees of USA Shooting of $3000, the collection of which shall only be by commercial means and not by using any nonpayment as a basis to restrict Ms.Beamon's membership or participation in activities or competitions of USA Shooting or ISSF.*
> *4. This Award is in full and final settlement of all claims and counterclaims submitted to this arbitration. All claims not expressly granted herein are hereby denied.*
> *The reasoned award will discuss the bases for this decision including, among other things, the application of the field of play doctrine, the failure to follow the appropriate protest and complaint processes (both with respect to allegations of code of ethics violations and with respect to protests), the lack of proof to establish any ethical or other rules violation by Ms. Cogdell Unrein, the lack of proof to establish any rules violation by anyone else, and other bases to be more fully set forth in the reasoned award which shall issue in due course in accordance with the relevant rules."*

2.13 The parties agreed to extend the time for the Arbitrator to issue this final award and decision until and through the date hereof.

III. JURISDICTION

3.1 The USOC was created by federal statute by the United States Congress. The law governing its activities is embodied in the Ted Stevens Olympic and Amateur Sports Act ("Ted Stevens Act"), 36 U.S.C. § 220501, *et. seq.*, and is set forth as being, among other things, for the purpose of exercising exclusive jurisdiction directly or through constituent members or governing bodies over all matters pertaining to Olympic Sport. This includes the USOC's governance of NGBs. The purposes and powers of the USOC include (in pertinent part) providing swift resolution of conflicts and disputes involving athletes and national governing bodies "that arise in connection with their eligibility for and participation in … world championship competition…"

36 U.S.C. §220503(8) and 220505(5).

3.2 Pursuant to 36 U.S.C. §220505, the USOC has adopted a Constitution and Bylaws and is authorized to recognize a NGB for each Olympic sport. As the recognized NGB for the sport of shooting, USAS, pursuant to the Ted Stevens Act, USOC procedure and USAS' bylaws, is obligated to "submit to binding arbitration in any controversy involving…the opportunity of any amateur athlete to participate in amateur athletic competition in cycling, upon demand of the USOC or any aggrieved amateur athlete in accordance with the Commercial Rules of the American Arbitration Association or as modified pursuant to the Ted Stevens Olympic and Amateur Sports Act."[1]

3.3 As part of its requirements for continuing as the NGB for shooting in the United States, USAS has the exclusive authority within the United States to sanction events that are involved in international competitions and to nominate athletes to the USOC for the Olympic Games. *See, e.g.,* Ted Stevens Act, 36 U.S.C. § 220523(a)(7) ("a national governing body may . . . designate individuals and teams to represent the United States in international amateur athletic competition . . . .). *See also* USOC Bylaws, § 8.7(a).

3.4 Although USAS has the authority to select athletes to represent the country in protected competitions, its authority does not come with unbridled discretion. Rather, one function of the Ted Stevens Act, and the oversight of the USOC generally, is to inject as much objectivity and accountability into the selection process as was consistent with the promotion of Olympic and international medal-winning capability. As a consequence, an NGB is required as part of its delegation of authority from Congress, to

> *"establish a written procedure, approved by the corporation [USOC], to fairly select athletes and team officials for the Olympic, Paralympic or Pan American Games teams, and, upon approval, timely disseminate such procedure to the athletes and team officials."*

USOC Bylaws, § 8.7(f).

3.5 An athlete who believes that she has been denied an opportunity to participate in a "protected competition" is entitled to challenge the NGB's selection through arbitration in accordance with Section 9 of the USOC Bylaws.

3.6 On June 21, 2016, Ms. Beaman filed her Demand for Arbitration with the AAA. She later filed an Amended Demand on June 24, 2016.

3.7 No party to this proceeding complained about, objected to, or disputed the jurisdiction of the Panel here, and in fact Ms. Beaman, USAS, and Ms. Cogdell-Unrein were active participants in this proceeding, and the other Affected Athletes were given an opportunity

[1] The Arbitrator notes that this requirement only relates to the application of the relevant rules but the relevant provision is silent on the identity of the administrator or administration of such rules, which presumably could be the USOC itself or another third party, though the AAA has historically been the administering institution, as well as providing its rules for adjudication.

participate in these proceedings and chose not to.

3.8 Therefore, based on the foregoing, and applicable law, this Arbitrator has jurisdiction over this dispute.

IV. STANDARD OF REVIEW

4.1 The jurisprudence in the area of the standard of review for athlete selection cases is developing and is established primarily through the decisions of arbitrators in cases brought under Section 9 and in other relevant proceedings.

4.2 "It is well established that, in the vast majority of cases, it is not the role of an appeal panel to review the merits of a selection policy or a selection decision, ie the issue is *not* whether the appeal panel agrees with the selection policy or selection decision in question". Adam Lewis & Jonathan Taylor, *Sport: Law and Practice* H.6.46, at 1596 (3rd ed. 2014). The Panel subscribes to the following formulation of the issues, and limitations, for arbitrators to review selection cases, be they relating to athletes or officials:

> "*The test I have applied is to find that a decision may be open to challenge if, but only if,*
>
> *(i) It is not in accordance with Selection Policy as published; and / or*
> *(ii) The policy has been misapplied or applied on no good evidence and / or in circumstances where the application of the policy was unfair (for example, because someone with selectoral authority had given a categorical assurance to an athlete that the policy would not be applied); and / orThe decision maker has shown bias or the appearance of bias or the selection process has otherwise been demonstrably unfair;*
> *(iii) Where the conclusion is one that no reasonable decision maker could have reached.*
>
> *That last conclusion is one that any Judge or Arbitrator has to approach with the utmost care. As I have already indicated, it is of fundamental importance that we should not substitute our own judgment on the merits for those of the selectors – i.e who would we have selected, or who is the better athlete or has the better performance figures and so forth. So long as selectors apply policy properly, and do so honestly, fairly and reasonably, and take account of relevant facts (they being best judged to decide what is relevant and what is not), then their decisions must be accorded the utmost respect."*

(*Belcher v. British Canoe Union*, Sport Resolutions (5 July 2012)). It is well established that "*an appeal body should be very cautious about overturning a selection decision. It should do so exceptionally, where the flaw in the decision goes well beyond a mere disagreement with the merits of the selection decision made*." (*Renshaw v British Swimming*, Sport Resolutions (30 June 2012)) (these principles and cases were first cited with approval in the US in *Merson v. USA*

Triathlon (AAA Case No. 77 190 272 12 JENF) (October 12, 2012)).

4.3 In making this assessment, an arbitrator must keep in mind fundamental legal principles that apply in these cases, including the concept that absent an irrational basis for a decision, deference must be shown to the NGB and its decision-making process. *See California Trial Lawyers Ass'n v. Superior Court*, 187 Cal.App.3d 575, 579-80 (1986) (stating, "Courts must avoid interfering with an organization's autonomy by substituting a 'judicial judgment' for that of the association's in an areas where the association is more competent."); *accord Beashel & Czislowski v. Australian Yachting Federation Inc.* (CAS Case No. CAS 2000/A/260, February 2, 2000) (Malcolm Holmes, QC); *Chiba v. Japan Amateur Swimming Federation* (CAS Case No. CAS 2000/A/278, October 24, 2000) (Hans Nater). *See also Givens v. Marion Superior Court*, 117 N.E.2d 553, 555 (Ind. 1954) (stating that a voluntary association "may, without direction or interference by the courts, for its government, adopt a constitution, by-laws, rules and regulations which will control as to all questions of discipline, or internal policy and management, and its right to interpret and administer the same is as sacred as the right to make them"); *Art Gaines Baseball Camp, Inc. v. Houston*, 500 S.W.2d 735, 740-41 (Mo. App. 1973) (stating, "In the final analysis, the court must determine if the board's action is so willful and unreasoning, without consideration of the facts and circumstances, and in such disregard of them as to be arbitrary and capricious. ***Where there is room for two opinions on the matter, such action is not 'arbitrary and capricious,' even though it may be believed that an erroneous conclusion has been reached***.") (emphasis added). All of these cases were cited with approval by the arbitrators in a Section 9 case in *Booth v. United States Rowing Ass'n*, AAA Case No. 30 190 259 07 (March 16, 2008). As aptly summarized by another court, voluntary athletic associations "should be allowed to 'paddle their own canoe' without unwarranted interference from the courts." *National Collegiate Athletic Ass'n v. Lasege*, 53 S.W.3d 77, 83 (Ky. 2001). Of course, the cited court cases and their references to the courts might advocate non-interference in the decisions of private associations by courts for a variety of jurisprudential considerations that are not present in these arbitration cases where the Section 9 arbitration panels are serving as a check on poor or badly motivated decision making in selections cases, but by and large the same fundamental legal considerations should be considered.

4.4 "It is well accepted that the standard of review for cases arising under Section 9 of the USOC Bylaws is *de novo*. Section 9 proceedings are not appeals of NGB decisions and there is no requirement for an arbitrator in these proceedings to give deference to any prior decision and in fact it would be incorrect to do so." *Hyatt v. USA Judo,* AAA 01 14 0000 7635 (Jun. 27, 2014), *quoting Craig v. USA Taekwondo, Inc.,* AAA Case No. 77 190E 00144 11 at p. at 5. (August 21, 2011). In the context of selections cases, that review is not one that substitutes the arbitrator's assessment of performance for that of the NGB experts who are involved in the decision making. Rather, it is a *de novo* review, with no deference, of the application of the published selection procedures to the facts of the individual case.

4.5 The burden of proof rests with the athlete to demonstrate by a preponderance of the evidence that the NGB failed to appropriately apply its rules to the facts at issue. *See Hyatt v. USA Judo at p. 10; Casey Tibbs v. United States Paralympics*, AAA 71 190 E 00406 12 JENF (August 28, 2012) at 14. "Section 9 jurisprudence requires [Claimant] to prove [the NGB] breached its approved and published Athlete Selection Procedures for the [World Championships], applied

them inconsistently to athletes similarly situated, acted in bad faith towards or with bias against [her], and/or violated applicable federal or state laws (e.g., Ted Stevens Olympic and Amateur Sports Act)." *Id. See also Craig*, supra at 5 ("Because this case involved an athlete selection issue, the burden of proof rests with the athlete to demonstrate that the NGB failed to appropriately apply its rules to the facts at issue.").

V. THE PARTIES' ARGUMENTS

5.1 Ms. Beaman argued in the Amended Complaint in summary the following:

- That Coach Jay Waldron and Ms. Cogdell-Unrein cheated by counting targets, using Mr. Waldron to do so (targets in trap shooting are launched by computer controlled machines at a variety of heights, angles, and velocities, randomly generated, but applied consistently and identically, except in different orders, to all competitors in an event, and here Mr. Waldron is alleged to have assisted Ms. Cogdell-Unrein by counting the targets and their placement, and conveying the information to Ms. Cogdell-Unrein during the selection event)
- That Mr. Waldron and Ms. Cogdell-Unrein engaged in unethical conduct toward the other competitors by engaging in counting targets
- That Mr. Waldron engaged in unethical conduct in not offering similar counting techniques to other athletes in the USAS elite program for which he was a national coach (in other words, he played favorites)

5.2 USAS argued in summary the following:

- That the failure to protest as provided for in the applicable procedures resulted in this case falling within the field of play doctrine
- That none of the cited ethical standards applied to this case, and that to the extent any did the process for making complaint thereunder was not followed
- That there was nothing illegal or unethical about the coaching provided to Ms. Cogdell-Unrein
- That Mr. Waldron did not engage in inappropriate conduct

5.3 Ms. Cogdell-Unrein argued in summary the following:

- That this case was about a pure field of play issue and therefore is not justiciable
- That the appropriate procedures for complaining about any issues at the time of the event were not followed or initiated
- That Ms. Cogdell-Unrein and her coach did not engage in any illegal or unethical conduct

VI. LEGAL ANALYSIS

6.1 The Arbitrator finds that none of the bases asserted by Ms. Beaman for disturbing the selection of Ms. Cogdell-Unrein as the nominee from USAS for inclusion on the United States Olympic Team in the sport of shooting, in the discipline of women's trap, apply here, as more fully set out below.

The USAS' Written, and Ms. Cogdell-Unrein's Oral, Motion to Dismiss

6.2 The AAA Rules provide as follows on dispositive motions in arbitrations:

> *"R-33. Dispositive Motions*
> *The arbitrator may allow the filing of and make rulings upon a dispositive motion only if the arbitrator determines that the moving party has shown that the motion is likely to succeed and dispose of or narrow the issues in the case."*

In other words, a party seeking to bring a dispositive motion must first make a request to an arbitrator for permission to make such motion, with a showing of likelihood of success and narrowing of the issues.

6.3 Given the possibility that not permitting a party sufficient opportunity to present its case may form the basis for an appeal of an award or a request to vacate, arbitrators' are generally reluctant to entertain such motions, particularly where there are possible fact issues that could be drawn out of the evidence presented at the hearing.

6.4 Here, the Arbitrator declined to take up the motions to dismiss made by USAS in writing with its Answer and by Ms. Cogdell-Unrein at the hearing outset for some of these same jurisprudential considerations.

6.5 This Arbitrator is of the general view that given the relatively short fuses for Section 9 cases, the relatively inexpensive AAA fee and arbitrator compensation schedule, and the relatively short hearing times on cases arising under Section 9 of the USOC Bylaws, such motions should generally be denied unless a very strong showing can be made of the factors under AAA Rules R-33. This is not to say that an Arbitrator should not grant a dispositive motion on a straightforward legal issue or in the case of a frivolous filing, but in the main these cases are not at those extremes and typically require the development of evidence before a disposition can be considered. Procedural as well as substantive fairness require Arbitrators in this area to be circumspect about these issues, particularly given that the timelines are such that there is often no opportunity for an appeal to be filed or for our award to be challenged. We have to do this fast, which makes it imperative that we do it correctly.

6.6 Accordingly, the Arbitrator declined the motions to dismiss, though in the end this Award upholds many of the same legal bases raised in the motions to dismiss and finds and rules accordingly.

The Field of Play Doctrine

6.7 The CAS jurisprudence is clear that the rules of game define how a game must be played, and who should adjudicate upon the rules, and that:

> *"The referee's bona fide exercise of judgment or discretion ... is beyond challenge otherwise than in so far as the rules of the game themselves provide. ... This is a fundamental element in sports law, most fully elucidated in the jurisprudence of the CAS."*

Michael J. Beloff & Rupert Beloff, "*The Field of Play*", Halsbury Laws of England, Centenary Essays, page 148, citing several CAS cases.

6.8 There are strong sporting-based principles underlying this doctrine, including the need for finality and the need to uphold the authority of the referee and match officials, the fact that such decisions are "*best left to field officials, who are specifically trained to officiate the particular sport and are best placed, being on-site, to settle any question relating to it*", the fact that there is no way to know what would have happened if the decision had gone another way, the arbitrators' lack of technical expertise, the inevitable element of subjectivity, the need to avoid constant interruption of competitions, the opening of floodgates, and Monday morning "quarterbacking" and the difficulties in rewriting records and results after the fact. *See, e.g.*, *Yang Tae Young v FIG*, CAS 2004/A/704, paras 3.13, 4.8, 4.10; *NAOC v IAAF & USOC*, CAS 2008/A/1641, award dated 6 March 2009, at para 25 (where the Panel stated that it was "*not prepared to interfere with the application of the rules governing the play of the particular game, which is best left to field officials, who are specifically trained to officiate the particular sport and are best placed, being on-site, to settle any question relating to it*"); *Saarinen & Finnish Ski Association v FIS*, CAS 2010/A/2090, awarded dated 7 February 2011, at para 44 (stating, "*It is not for the CAS with its limited role….. to question decisions of fact (e.g. what was the nature of the obstruction caused, or judgement, what was unsportsmanlike behaviour)…*").

6.9 In fact, this principle of respecting field of play decisions is one of the defining characteristics of the *lex sportiva*, as a sport specific rule that guides much of athletic competition at a fundamental level. *E.g.*, Michael Beloff, Tim Kerr, Marie Demetriou & Rupert Beloff, *Sports Law* 8.158, at 309 (2nd Ed. 2012). To be clear, this principle is one of self-restraint, but, "Sports law does not, have a policy of complete abstention." Robert C.R. Siekmann & Janwillem Soek (editors), *Lex Sportiva: What is sports law,* at 77 (2012); *see also* Adam Lewis & Jonathan Taylor, *supra*, E.3.2127, at 1075. Applying this well-considered principle is important, and disturbing it risks tearing asunder part of the fundamental fabric of the law of sport.

6.10 For example, in *Yang v FIG*, the CAS panel held that the participants are entitled to have referees make honest decisions, but not necessarily correct ones. The CAS panel noted that this was partly because no one could predict how the event would have played out if the referee had not made that decision. It stated: "*In short Courts may interfere only if an official's field of play decision is tainted by fraud or arbitrariness or corruption; otherwise although a Court may have jurisdiction it will abstain as a matter of policy from exercising it.*" *Yang Tae Young v FIG*, CAS 2004/A/704, para 3.17. *See also*, *NAOC v IAAF & USOC*, CAS 2008/A/1641, award dated 6 March 2009, at para 37; *Korean Olympic Committee v ISU*, CAS OG 02/2007, award dated 23 February 2002, at para 16. It therefore declined to interfere in a "field of play" decision, even though the judges later admitted the decision was wrong. It was clear: "*... there is no evidence of prejudice against the Appellant or preference for the athlete who was awarded the gold medal. There are therefore no grounds permitting the Panel to review the decision of the*

Jury of Appeal. The Appellant has not established that the decision of the Jury of Appeal was tainted by bad faith or arbitrariness."

6.11 As noted above, the field of play doctrine permits review of "field of play" decisions "*in so far as the rules of the game themselves provide*". If the rules do not provide for any review after the event or match has finished, then the CAS respects that. In *CPC v Reeb*, the CAS panel held that, where the rules of the game make the starter the sole judge of whether a race should be stopped for collision, whether he stops the race is entirely a matter for him, and cannot be reviewed by anyone else, regardless of the merits of that decision. *CPC v PC Reeb*, CAS 2000/A/305, award dated 24 October 2000, at para 5.

6.12 But if the rules do provide for the possibility of review of the decision "*immediately after, or even proximate to the competition*" after the match, the CAS has been clear that "*prima facie the same doctrine applies*". *Saarinen & Finnish Ski Association v FIS*, CAS 2010/A/2090, award dated 7 February 2011, at paras 35(6) and 38. In *Saarinen* the CAS determined that: "*The Competition Jury makes what are quintessentially field of play decisions. If there were no internal mechanism for appeal, but an appeal was direct to CAS, CAS would not interfere other than if bias or other equivalent mischief or error of law were identified. The Appeals Commission (again on the same hypothesis that an appeal from its decision was direct to CAS) would enjoy the same qualified immunity from CAS review. Appeals to the Commission are at large: it determines appeals proximately to the competition. Its decisions could therefore be classified as field of play decisions*". That has to be right, or else the post-match review provided for in the rules would lead to a complete end run around the 'field of play' doctrine, frustrating all of the public interest and other objectives that underlie it. It would mean that sports bodies would be forced to write out of their rule books any mechanism for post-match review of the original match official's decision, to ensure that the "*qualified immunity*" his or her decision enjoys is maintained, which would be a most undesirable result.

6.13 So, for example, in *De Lima*, a spectator ran out onto the course of the marathon at the Athens 2004 Olympic Games and attacked and pushed the leader into spectators. The leader resumed racing but was later overtaken and only won bronze. After the race, he filed an appeal with the referee, stating that the spectator's interference had cost him the gold medal and that therefore he should be awarded gold. The referee referred the appeal to the jury of appeal. They reviewed the video and the times of the finishers. While they expressed sympathy, their decision was that the result could not be changed. The CAS panel was clear that it was the decision of the jury of appeal that it was reviewing, and was also clear that that was a "field of play" decision for purposes of application of the doctrine. It further stated: "*Before a CAS Panel will review a field of play decision, there must be evidence of bad faith or arbitrariness. In other words, the Appellant must demonstrate evidence of preference for, or prejudice against, a particular team or individual*". Since there was no such allegation in that case, there was no basis to interfere. *Vanderlei De Lima & BOC v IAAF*, CAS 2004/A/727, award dated 8 September 2005, at paras 10 and 11.

6.14 The CAS has also been clear that the reference in the awards to permitting a challenge to a field of play decision on grounds of "arbitrariness" does not allow a review on the merits. To the contrary:

6.15 In *KOC v ISU*, the Panel stated:

> "*The jurisprudence of CAS in regard to the issue raised by this application is clear, although the language used to explain that jurisprudence is not always consistent and can be confusing. Thus, different phrases, such as "arbitrary", "bad faith", "breach of duty", "malicious intent", "committed a wrong" and "other actionable wrongs" are used, apparently interchangeably, to express the same test (M. v/AIBA, CAS OG 96/006 and Segura v/IAAF, CAS OG 00/013). In the Panel's view, each of those phrases means more than the decision is wrong or one that no sensible person could have reached. If it were otherwise, every field of play decision would be open to review on its merits. Before a CAS Panel will review a field of play decision, there must be evidence, which generally must be direct evidence of bad faith. If viewed in this light, each of those phrases mean there must be some evidence of preference for, or prejudice against, a particular team or individual*".

Korean Olympic Committee v ISU, CAS OG 02/2007, award dated 23 February 2002.

6.16 This ruling was followed in *Yang*, *De Lima* and *NAOC v IAAF & USOC*, where the CAS panel confirmed that whether the accusation is one of bad faith or arbitrariness, "*the Appellant must demonstrate evidence of preference for, or prejudice against, a particular team or individual*" before an official's "field of play" decision can be disturbed.

6.17 As noted by one learned commentary, *"The end result is that courts or tribunals should interfere only if an official's field of play decision is tainted by fraud or by arbitrariness or corruption. It is not so much that there is a presumption of regularity as that there is a bias in favour of a result already reached."* Lewis & Taylor, *supra*, E3.129, at 1076.

6.18 This doctrine is embodied in USOC Bylaws Section 9.12, titled "Field of Play Decisions", created following on after some of these CAS decisions issued, where it states that:

> *"The final decision of a referee during a competition regarding a field of play decision (a matter set forth in the rules of the competition to be within the discretion of the referee) shall not be reviewable through or the subject of these complaint procedures unless the decision is (i) outside the authority of the referee to make or (ii) the product of fraud, corruption, partiality, or other misconduct of the referee. For purposes of this Section, the term 'referee' shall include any individual with discretion to make field of play decisions."*

6.19 Here, the evidence established that the conduct complained of by Ms. Beaman, and undertaken by Mr. Waldron and Ms. Cogdell-Unrein, was open, obvious, clear, unambiguous, discussed by others, and photographed and videoed. It would strain credulity for me to believe that the referee did not or could not see it. No yellow card was issued here by any official, which is the penalty proscribed under the relevant rules for the way that the coaching in question was being characterized. That in itself is a field of play decision that cannot be challenged later in a Section 9 proceeding. In any event, the USAS rules are clear that if a competitor has an objection to conduct occurring at an event it is their obligation to file a protest. No protest was lodged here, neither

verbal nor written, though the applicable rules provide for this as the way to resolve these disputes. No procedure was lodged here until this Section 9 proceeding was commenced. Unfortunately for Ms. Beaman, while her concerns might be worthy of broader consideration in the sport or within USAS, her competitive future depends on her filing protests to decisions of referees or conduct of competitors as and when required to do so within a narrow window, or the results become final and incapable of challenge. Ms. Beaman and her father were clearly experienced and the fact that they would not be mindful of these rules is simply astonishing given that she was competing for a spot on the US Olympic Team and nearly made it. By not filing, she put this case clearly in the realm of field of play, and the results became final when Ms. Beaman failed to lodge any protest in accordance with the rules.

Asserted Breaches of Codes of Ethics

6.20 Ms. Beaman asserts violations of the following Codes of Ethics by Ms. Cogdell-Unrein and/or Mr. Waldron: The USAS Code of Ethics, the USAS Coaching Code of Ethics, the ISSF Code of Ethics, the IOC Code of Ethics, and the USOC Code of Ethics. I will address the latter code violation allegations first and then take up the USA Shooting code issues.

6.21 With respect to the asserted violation of the USAS Code of Ethics, there is no evidence of rule breaking here. The Arbitrator was presented with, on Ms. Beaman's behalf, opinion evidence of people around the event, none of whom were empowered with making any call during the event, providing their own views. This is simply irrelevant evidence. Putting aside the fact that the referee did not issue a yellow card and that Ms. Beaman did not file a protest, there was ample evidence that the techniques used by Ms. Cogdell-Unrein and Mr. Waldron were contemplated or permitted by the rules, including an opinion letter from ISSF saying as much.

6.22 Putting that aside, the Selection Procedures provide for athletes to be removed from the team for, "Violation of USA Shooting's Code of Ethics." Selection Procedures at 17. The USAS Code of Ethics and other rules provide a procedure for asserting a breach of the USAS Code of Ethics which was not followed here. In other words, the Arbitrator not presented with a violation of the USAS Code of Ethics, which can only be adjudicated in accordance with the relevant USAS procedures.

6.23 The ISSF Code of Ethics, on its face, applies to a limited group of people:

> *"This Code shall apply to all officials and employees of the ISSF, ISSF member federations, the Continental Shooting Sport Confederations, as well as to athletes, coaches and other participants in ISSF activities.".*

Neither Ms. Cogdell-Unrein nor Mr. Waldron are within this scope because they are not participating in ISSF activities during the time they were alleged to have engaged in unethical conduct.

6.24 Similarly, the IOC Code of Ethics, on its face, applies to a limited group of people. In its section titled, "Scope of application", the IOC Code of Ethics simply does not cover athletes outside of the Olympic Games period. Putting that aside, many of the principles in the IOC Code

of Ethics are so general as to be difficult or impossible to enforce in the context of a domestic Olympic selection qualifying event. Accordingly, the Arbitrator finds that the IOC Code of Ethics has no application here.

6.25 Ethics is not something ethereal or general. Applying codes of ethics, a field known as applied ethics, to specific situations is not a matter of making general statements about what one party thinks is correct behavior over another. Similarly, it is not based on some generalized notion of fairness, fair play, or good sportsmanship. Violating ethical codes usually requires a code provision, of application to the party alleged to have violated it, defining some specific conduct of that person, which may or may not involve rule breaking. In addition, the nature of ethics is that ethical norms are widely accepted by a community or group as principles of general application; from the divergent evidence here in opinions on the use of the technique Mr. Waldron and Ms. Cogdell-Unrein used, it is difficult to see how

6.26 Put simply, none of the argued for ethical codes apply as asserted in this Section 9 proceeding.

6.27 The Arbitrators wants to be clear on this following point. There were a lot of statements about allegations of "cheating" by Ms. Cogdell-Unrein. I simply did not find that there was anything involving cheating here. Did Ms. Cogdell-Unrein draw on her extensive international experience (experience that others may not have had) to use a coaching technique that she observed abroad and determined was acceptable, and successful, in international shooting? Yes, she did. Was this method exceptional in the sense that it was different than what others were doing? Of course, in the vein that Dick Fosbury sought to gain a competitive advantage by using a technique few had realized possible for the high jump, the Fosbury Flop, until he first did it in 1965 and it gained widespread acceptance as a technique when he won Olympic gold in 1968, continuing in use to this day, Ms. Cogdell-Unrein used a technique permitted under the rules. But that does not make her decision to use this technique, that appears to be within the scope of allowed conduct under the rules, "cheating." In fact, it would be better to call her decision "strategic" or "smart" given the results.

6.28 Accordingly, the Arbitrator finds that Ms. Beaman's claims should be dismissed in their entirety.

The Claims Against Coach Waldron

6.29 Ms. Beaman argues here in part that Ms. Cogdell-Unrein's nomination to the US Olympic Team should be rescinded based on Mr. Waldron's conduct. In summary, that conduct is asserted to be that he showed favoritism to Ms. Cogdell-Unrein over other athletes by using the technique at issue with her and not offering it to others and that he engaged in conduct violating the rules concerning coaching Ms. Cogdell-Unrein during the event in question. I found no evidence to support any of these claims, though in this Section 9 proceeding, Mr. Waldron was not before this tribunal other than as a witness.

6.30 Irrespective of whether Mr. Waldron's conduct violated any USAS rule or applicable code of ethics, Ms. Cogdell-Unrein cannot be charged with his violations. There is

simply no basis in the law, or in fundamental fairness, for Ms. Cogdell-Unrein to be removed from nomination to the US Olympic Team for the conduct of her coach, unless she somehow was involved in directing that conduct (of which there is no allegation or evidence). Merely being a beneficiary of such conduction is not actionable.

Allocation of Costs and Fees

6.31 Ms. Beaman confirmed at the hearing that she seeks to have the Arbitrator shift responsibility for her portion of the arbitration fees and costs (those fees of the arbitrator and of the AAA) to USAS. USAS made a request for shifting of responsibility for its fees and costs to Ms. Beaman. Ms. Cogdell-Unrein confirmed on the record that she made no such request. To determine this issue, the Arbitrator must first analyze the basis for such a request, then, if such a basis is adequately established, determine whether the facts and equity support allocation, and then if the facts and equity support allocation, determine a reasonable amount to shift.

6.32 Internationally, the general rule on allocating arbitration costs is the oft-quoted maxim that "the costs follow the event." *E.g.*, Arbitration Act 1996 (Section 61(2)) (United Kingdom). *See generally Redfern and Hunter on International Arbitration* §9.93 (5th ed. 2009); Robert Smit and Tyler Robinson, "Cost Awards in International Commercial Arbitration: Proposed Guidelines for Promoting Time and Cost Efficiency", 20 *Am. Rev. Int'l Arb.* 267 (2009); Chartered Institute of Arbitrators, *Practice Guideline 9: Guideline for Arbitrators on Making Orders Relating to the Costs of the Arbitration*. In other words, in international cases, the prevailing party can expect to receive an award in its favor that includes its own legal fees and other arbitration-related costs including the costs of the arbitrators and the arbitration institution.

6.33 Both the New York Convention and the FAA are silent on this topic.

6.34 Under the general rule in the United States in litigation and arbitration, dating from a US Supreme Court case in 1796 (*see* J. Gotanda, "*Awarding Costs and Attorneys' Fees in International Commercial Arbitration*," 21 Mich. L. Rev. 10, n.39 (1999)), a prevailing party is generally entitled to shifting of its reasonable attorney's fees or costs to the non-prevailing party only upon the basis of contract or a statute providing for such shifting. *See, e.g.*, California Civil Code § 1717; College of Commercial Arbitrators, *Guide to Best Practices in Commercial Arbitration* 181 (2nd ed. 2010). In some limited circumstances, a court can also award a party's attorney's fees or costs where there exists some form of egregious misconduct during the course of the litigation or proceeding that might have prolonged the proceedings or unnecessarily or unreasonably increased the attorney's fees or costs of their opponent.

6.35 There is case law that suggests that an arbitrator possesses the inherent authority to award attorney's fees due to the conduct of a party both before and during the arbitration proceeding. *See, e.g., Todd Shipyards Corp. v. Cunard Line, Ltd.*, 943 F.2d 1056 (9th Cir. 1991) [arbitration conducted under AAA Commercial Rules]; *ReliaStar Life Ins. Co. of N.Y. v. EMC National Life Co.*, 564 F.3d 81 (2nd Cir. 2009).

6.36 Here, Ms. Beaman and USAS both requested an award of fees and costs against the other. That evidences an agreement to shift under the AAA Rules sufficient to ground a decision

in this area.

6.37 Section R-47(d) of the AAA Commercial Rules provides as follows:

> *(d) The award of the arbitrator(s) may include: i. interest at such rate and from such date as the arbitrator(s) may deem appropriate; and ii. an award of attorneys' fees if all parties have requested such an award or it is authorized by law or their arbitration agreement.*

6.38 Prior cases in the Olympic sphere have found attorney's fees and costs were awardable against a national governing body in a selection case arising under Section 9 of the USOC Bylaws. *See, e.g., McCandless v. USA Track & Field* (AAA No. 01-15-0004-2085) (2015)*; Pohl v. USA Badminton* (AAA No. 30 190 00604 03) (2003), at par. 17 (stating, "In light of the fact that these proceedings were the direct result of USAB's failures throughout the course of these trials, it shall bear all of the costs of these proceedings, including Pohl's filing and attorney's fees, as well as all costs and fees of the American Arbitration Association and the compensation of the arbitrator.").

6.39 This Arbitrator is not of the view that attorneys' fees should be shifted in every Section 9 in favor of the prevailing party. To the contrary, proceeding under the US rule and not the English rule, the power to shift fees should be used sparingly and only in exceptional cases in Olympic-related cases, particularly where fees are to be shifted against an athlete and in favor of a governing body that might be in a better relative position to pay its own freight. Having said that, where there are claims that are so without any legal or factual basis, and where, as here, the evidence suggests that the case was brought by Ms. Beaman's distraught father and coach, who was on site at the event in question and did not exercise any of the rules-provided rights at the time that could have resolved this issue in real time without the need for filing this action, rules of which both he and Ms. Beaman were or should have been aware, this Arbitrator is comfortable shifting some of the burden caused to the NGB resulting from this proceeding to the athlete.

6.40 Accordingly, the Arbitrator finds that $3,000 is a sufficient contribution for Ms. Beaman to make toward the attorneys' fees of USAS, which were undoubtedly a lot more. All potential claimants and respondents in these kinds of cases should take note that they need to be familiar with the rules of their sport, including the rules for challenging decisions, they need to try to follow them in good faith and avail themselves of field of play related processes, and they need to assert claims that have solid legal and factual bases or they will face the same risk.

6.41 Section R-43 of the AAA Commercial Rules, titled "Scope of Award", provides as follows:

> *"(a) The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance of a contract.*
>
> *(b) In addition to a final award, the arbitrator may make other decisions, including interim, interlocutory, or partial rulings, orders, and awards. In any*

interim, interlocutory, or partial award, the arbitrator may assess and apportion the fees, expenses, and compensation related to such award as the arbitrator determines is appropriate.

(c) In the final award, the arbitrator shall assess the fees, expenses, and compensation provided in Sections R-49, R-50, and R-51. The arbitrator may apportion such fees, expenses, and compensation among the parties in such amounts as the arbitrator determines is appropriate."

6.42 Section R-50 of the AAA Commercial Rules, titled "Expenses", provides as follows:

"The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the arbitration, including required travel and other expenses of the arbitrator, AAA representatives, and any witness and the cost of any proof produced at the direct request of the arbitrator, shall be borne equally by the parties, unless they agree otherwise or unless the arbitrator in the award assesses such expenses or any part thereof against any specified party or parties."

6.43 These provisions of the AAA Commercial Rules are consistent with the text of the Revised Uniform Arbitration Act ("RUAA"), which provides in Section 21(c) that "an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding", and its comment 2 stating "parties may provide for the remedy of attorney's fees and other expenses in their agreement even if not otherwise authorized by law." (statutory reference here to the AAA Commercial Rules with their Section R-50 broad discretion for arbitrators to make awards of arbitration fees almost certainly suffices here as constituting a proper basis for awarding arbitration costs if the RUAA applied). The RUAA has been adopted in many US states, though notably California and New York have retained their own arbitration statutes, which, while different, recognize similar principles. E.g., Calif. C. Civ. Pro. § 1284.2 ("unless the arbitration agreement otherwise provides or the parties to the arbitration otherwise agree, each party to the arbitration shall pay his pro rata share of the expenses and fees for the neutral arbitrator, together with other expenses of the arbitration incurred or approved by the neutral arbitrator, not including counsel fees or witness fees or other expenses incurred by a party for his own benefit") (here the reference to the AAA Commercial Rules with its broadly discretionary Section R-50 suffices as the parties' agreement on this point).

6.44 Essentially, under AAA Commercial Rules Section R-50, in the absence of an agreement between arbitrating parties to the contrary, the arbitrator has discretion to assess and award arbitrator and arbitral institution fees and expenses in the final award. This discretion does not appear to be bounded by any constraints, at least not on the face of the rule, and it appears that this Rule 50 applies irrespective of whether the parties have an express fees and costs shifting provision in their agreement or not; simply by agreeing to arbitrate under the AAA Commercial Rules, which include this provision, indicates the parties' assent to and binds the parties to permit cost shifting should the arbitrator determine to do so. This arrangement is not unique to the AAA; other reputable arbitral institutions have similar rules on this subject. *Compare* R-50, *with* CPR Rules 17.2, 17.3 and JAMS Rule 24(f) and 31. *See generally* College of Commercial Arbitrators,

Guide to Best Practices in Commercial Arbitration 181-82 (2nd ed. 2010).

6.45 Presumably, as is the case with the general freedom of parties to construct their arbitration by agreement as they see fit, this rule based cost shifting right could be modified by the parties in their agreement to arbitrate or in their arbitration clause (or, as here, in the relevant rules requiring submission to the AAA under the AAA Commercial Rules subject to the limited modification procedure set forth in Section 220522(a)(4) of the Ted Stevens Olympic and Amateur Sports Act). No such rules modification is in existence for these cases as yet, so the Arbitrator is bound by the plain text of Section R-50.

6.46 Now that the Arbitrator has established that arbitration costs can be shifted within a broad range of arbitrator discretion, I must determine whether I should shift such arbitration costs here.

6.47 Considering all of the above legal standards, the Arbitrator is of the view that the entire AAA filing fees and the entire fees of the Arbitrator should be shifted to Ms. Beaman. Ms. Beaman filed a legal proceeding and purported to proceed on bases that flew in the face of the well-established field of play doctrine. In addition, she did not avail herself of any of the applicable first instance procedures that permitted her to protest athlete conduct and referee decisions within the USAS rules. And she maintained her position in calling Ms. Cogdell-Unrein a "cheater", forcing USAS and Ms. Cogdell-Unrein to defend the selection of Ms. Cogdell-Unrein for the US Olympic Team. In addition, USAS is the clearly the prevailing party in this case.

6.48 Once I accept that costs and fees should be shifted, it is well accepted that the Arbitrator is empowered to determine the quantum of costs that can be shifted. Generally, it appears from the jurisprudence that such shifted costs should be "reasonable". I could determine to shift all, some, or none of the costs in my sole discretion absent a prohibition otherwise in the parties' arbitration agreement or rules (no such prohibition exists here). Given that 100% of the fees requested are either the standard filing fees of the AAA and the fees dramatically reduced from my usual hourly rates, and that the bulk of the arbitration costs to be shifted consist of my own fees, I would be hard pressed to find that the costs here are unreasonable absent the presence of some other circumstance that has not been presented. Accordingly, I determine that the requested arbitration fees of the arbitrator and the filing fees of the AAA are reasonably calculated and reasonable under the circumstances and should be entirely shifted to Ms. Beaman.

VII. DECISION AND AWARD

7.1 On the basis of the foregoing facts, legal analysis, and conclusions of fact, the Panel renders the following decision:

a. The Demand and Amended Demand of Ms. Beaman are dismissed and denied in their entirety.

b. The administrative fees of the American Arbitration Association totaling Eight Hundred Fifty Dollars and No Cents ($850.00) and the compensation of the arbitrator

totaling Two Thousand Dollars and No Cents ($2,000.00) shall be borne by Janessa Beaman. Therefore, Janessa Beaman shall reimburse the sum of One Thousand Dollars and No Cents ($1,000.00), representing that portion of said fees in excess of the apportioned costs previously incurred by USA Shooting.

c. Ms. Beaman shall make a contribution toward the legal fees of USA Shooting of $3,000, the collection of which shall only be by commercial means and not by using any nonpayment as a basis to restrict Ms. Beaman's membership or participation in activities or competitions of USA Shooting or ISSF.

d. This Award is in full and final settlement of all claims and counterclaims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

IT IS SO ORDERED, AWARDED, AND DETERMINED.

Dated: August 5, 2016.

Jeffrey G. Benz
Arbitrator