

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

In the matter of the Arbitration between:

Case Number: 01-15-0002-6258

FINAL AWARD

Miriam Galecki

-vs-

USA Taekwondo, Inc.

I, JAMES R. HOLBROOK, THE UNDERSIGNED ARBITRATOR (“Arbitrator”), was duly appointed and sworn on February 11, 2015, as the Arbitrator herein in accordance with the arbitration provisions in the Ted Stevens Olympic and Amateur Sports Act (“Sports Act”), Article IX of the United States Olympic Committee (“USOC”) Constitution, and the Expedited Procedures of the Commercial Arbitration Rules (“Association Rules”) of the American Arbitration Association (“Association”), to decide the claims brought by Claimant Miriam Galecki (“Ms. Galecki”) against Respondent USA Taekwondo (“USAT”) under Section 9.1 of the USOC Bylaws. Ms. Galecki and USAT collectively are “the Parties” herein.

Having considered the Parties’ claims and defenses, and their evidence and arguments presented at the arbitration hearing held on February 12, 2015, and having previously rendered an Interim Award dated February 12, 2015, the Arbitrator now renders this:

FINAL AWARD

Jurisdiction

1. The Arbitrator has jurisdiction to hear and decide this dispute pursuant to the Sports Act, Article IX of the USOC Constitution, Section 9 of the USOC Bylaws, and the Association Rules.

The Parties and Affected Athletes

2. Ms. Galecki is a USAT member athlete whose date of birth is July 29, 1998. She is a member of the USAT Junior National Team (“Juniors”). She is seeking to earn a Senior National Team berth and has been working diligently toward this goal for many years.

3. USAT is the National Governing Body for the sport of taekwondo in the United States. USAT is a member of the USOC and a member of the World Taekwondo Federation.
4. USAT identified and gave notice of this arbitration to two affected USAT member athletes who did not appear after receiving notice.

Claims and Defenses

5. Ms. Galecki has brought this right-to-compete grievance on the grounds that her right to compete, guaranteed by Section 9.1 of the USOC Bylaws, has been denied by USAT. She alleges that she relied on misrepresentations and omissions of USAT, which created uncertainty and confusion about the age restrictions of USAT Juniors to participate in the Senior Division of the 2014 National Championships (“2014 Nationals”). She alleges that she relied on incomplete information from USAT in making her decision to enter and compete in the Senior Division of the 2014 Nationals. She alleges that she thereby competed without adequate physical and mental preparation and without her long-time coach being with her to coach her. She alleges that she participated in the 2014 Nationals as a Junior, when she did not need to do that, because USAT—without telling her—had created another pipeline for Juniors to compete for the 2015 National Team. She alleges she was thereby denied a fair chance to compete for the 2015 National Team. She is seeking the right to compete in the Open Junior Team Trials, which were held this past weekend in Las Vegas. She alleges this would provide her with a fair chance to compete in the 2015 National Team Trials, which were held this past weekend in Las Vegas following the Open Junior Team Trials.
6. USAT acknowledges that its initial publication of age-restriction information was inaccurate about whether a particular class of Juniors would be permitted to compete in the pipeline at the 2014 Nationals for the 2015 National Team. This particular class of Juniors consists of member athletes who were technically too young for international competition in 2014, but who are old enough for international competition in 2015 (“Rising Seniors”). USAT identified this age-restriction error and corrected it before the 2014 Nationals. Ms. Galecki and four other Rising Seniors were permitted to register for and compete in the Senior Division of the 2014 Nationals. Ms. Galecki and the two affected Rising Seniors lost; two Rising Seniors who competed in the 2014 Nationals won and advanced. For those Rising Seniors who did not compete in the Senior Division of the 2014 Nationals, USAT created a “fight-in” tournament at the Open Junior Team Trials as another pipeline to compete in the 2015 National Team Trials. USAT alleges that, because Ms. Galecki already had a fair chance to compete in the 2014 Nationals, she is not entitled now to have a second chance to compete in the Open Junior Team Trials.

The Arbitration Hearing

7. The Arbitrator conducted a telephonic arbitration hearing on February 12, 2015. Ms. Galecki and her father testified and she called Bruce Harris (CEO of USAT) to testify. USAT called Patrick Wentland to testify. All witnesses testified on direct and cross-examination under oath administered by the Arbitrator. The Parties submitted a joint set of exhibits which were all admitted into evidence.
8. Counsel for the Parties made opening statements and closing arguments.
9. The Arbitrator closed the hearing on February 12, 2015, after the Parties completed their presentations of evidence and arguments.
10. On February 12, 2015, after the hearing was closed, the Arbitrator issued an Interim Award that denied Ms. Galecki's claims against USAT.

The Arbitrator's Decision

11. Before she competed in the 2014 Nationals, Ms. Galecki knew that USAT's initial publication of age-restriction information was inaccurate.
12. Before she registered to compete in the 2014 Nationals, Ms. Galecki knew that the initial confusion and uncertainty about age restrictions for Rising Seniors had been clarified by USAT.
13. Ms. Galecki chose to compete in the 2014 Nationals.
14. Ms. Galecki was permitted by USAT to register for and compete in the Senior Division of the 2014 Nationals as a Rising Senior.
15. Neither before nor immediately after the 2014 Nationals did Ms. Gelecki object that her participation in the 2014 Nationals was coerced by USAT, or that she had been deceived by USAT, or that she was unfairly deprived of the opportunity to mentally and physically prepare to compete, or that she was unfairly deprived of the opportunity to have her long-time coach with her at the 2014 Nationals.
16. Ms. Galecki's long-time coach chose to go to China rather than attend the 2014 Nationals with Ms. Galecki. Ms. Galecki was coached by another coach at the 2014 Nationals.
17. Ms. Galecki lost in the 2014 Nationals and she therefore did not advance to the 2015 National Team Trials.
18. On February 9, 2015—long after she lost at the 2014 Nationals, and just days before the Open Junior Team Trials began—Ms. Galecki filed this right-to-compete grievance.

19. In the 2014 Nationals, Ms. Galecki was provided with a fair chance by USAT to compete in a pipeline for the 2015 National Team.
20. To give Ms. Galecki the remedy she requests—to compete now in the Open Junior Team Trials—would be unfair to the two Rising Seniors who competed in and won at the 2014 Nationals and who thereby advanced to the 2015 National Team Trials.
21. It is not unfair to Ms. Galecki that Rising Seniors who did not compete in the 2014 Nationals are now being permitted by USAT to compete in the Open Junior Team Trials. All Rising Seniors have been provided thereby with one fair chance by USAT to compete in a pipeline for selecting the 2015 National Team.

The Arbitrator's Award

22. Ms. Galecki's claims against USAT are denied with prejudice.
23. Because USAT initially created some uncertainty and confusion about age restrictions, USAT should bear half of the costs of this arbitration.
24. Because USAT clarified the initial uncertainty and confusion before the 2014 Nationals, and because Ms. Galecki was permitted to register for and compete in the 2014 Nationals, she should bear half of the costs of this arbitration.
25. Therefore, the Arbitrator has allocated the costs of this arbitration equally between the Parties.
26. The administrative fees and expenses of the Association totaling Eight Hundred Fifty Dollars and No Cents (\$850.00) shall be borne equally by the Parties.
27. The fees and expenses of the Arbitrator totaling One Thousand Five Hundred Dollars and No Cents (\$1,500.00) shall be borne equally by the Parties.
28. Therefore, the USAT shall reimburse Ms. Galecki the sum of Four Hundred Twenty Five Dollars and No Cents (\$425.00) representing that portion of said fees in excess of the apportioned costs previously incurred by her.
29. Ms. Galecki shall bear her own attorneys' fees. USAT shall bear its own attorneys' fees.

30. This Final Award is in full satisfaction of all claims submitted to arbitration by Ms. Galecki against USAT and in full satisfaction of all defenses submitted by the USAT against Ms. Galecki. All other claims and defenses not expressly granted herein are hereby denied.

SIGNED: James R. Holbrook DATED: 2/18/15
James R. Holbrook, Arbitrator