

April 27, 2012

Mr. Eric Parthen
Chief Executive Officer
USA Taekwondo
One Olympic Plaza
Colorado Springs, CO 80909

Re: Validity of Board Action to Set Elections

Dear Eric:

This correspondence is in response to your inquiry as to whether USA Taekwondo (“USAT”) engaged in valid and lawful activity when the Board of Directors recently approved elections for a Transitional Board of Directors. Based on our research and analysis of applicable Colorado law, it appears that the USAT Board exercised valid, legal authority in making this decision.

1. Background.

The issue revolves around whether the Board had a quorum when it voted to proceed with the elections. The USAT Bylaws call for 10 members of the Board, but at the time of the vote, there were only seven votes on the Board due to resignations. A total of 4 ½ votes attended the meeting (and voted unanimously to proceed with elections), which means that a majority of the Board was present if we consider the Board to have had seven members, but not if the Board had ten members, for purposes of determining a quorum.

As a non-profit corporation registered in Colorado, USAT is subject to the Colorado Revised Nonprofit Corporation Act, which includes Section 7-128-205 of the Colorado Revised Statutes. Section 7-128-205(1) provides: “Unless a greater or lesser number is required by the bylaws, a quorum of a board of directors consists of a majority of the number of directors in office immediately before the meeting begins.”

This raises two issues: (i) do the USAT Bylaws include a greater or lesser number for a quorum, and (ii) how does the term “in office” apply to USAT’s situation?

2. USAT Bylaws.

Section 7.15 of the Bylaws states: “The presence of a majority of the directors of the Board at the time of any meeting constitutes a quorum for the transaction of

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business, and the act of a majority of directors on the Board constitutes the act of the Board.” In other words, the Bylaws do not require a greater or lesser number than a majority for a quorum.

3. “In Office”

It is our interpretation that the term “in office” means that the correct number of Board members from which to calculate the quorum was seven, not 10. The term “in office” refers to those individuals who hold their positions on the Board. Since three members of the Board had resigned, they were no long “in office” since they did not hold a seat on the Board.

This is reinforced by comparing the nonprofit statute with the comparable Colorado for-profit statute. Section 7-108-205(1) of the Colorado Revised Statutes, which is part of the Colorado Business Corporation Act and applies to for-profit entities, states: “Unless a greater number is required by the bylaws, a quorum of a board of directors consists of: (a) A majority of the number of directors fixed if the corporation has a fixed board size.”

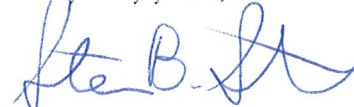
USAT has a fixed board size—namely, ten. The for-profit statute calls for using the fixed number of directors to calculate the quorum. Stated differently, if the for-profit statute applied, then USAT would have needed a majority of the ten directors (at least 5 ½ votes). However, the language of the nonprofit statute is quite different, in that it references directors “in office” as opposed to the “fixed” number of directors. This gives further credence to the interpretation that in office means those holding their positions at the time, not the fixed number in the Bylaws.

Finally, there does not appear to be any applicable case law that would suggest a contrary conclusion to this analysis.

Therefore, in our view, USAT only needed a majority of the seven directors in office immediately before the vote to constitute a quorum. By receiving four and one-half of the seven available votes, USAT satisfied the requirement of Section 7-128-205.

Please let me know if you have any questions.

Very truly yours,



Steven B. Smith

cc: Lucinda McRoberts, Esq.