

AMERICAN ARBITRATION ASSOCIATION  
Commercial Arbitration Tribunal

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Case No. 01-19-0002-0105

In the Matter of the Arbitration between

BENARD KETER, FRANKLINE TONUI, and LAWI LALANG, Claimants

and

USA TRACK & FIELD, Respondent

and

39 IMPACTED ATHLETES, Affected Athletes.

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**FINAL AWARD**

I, THE UNDERSIGNED ARBITRATOR, having been designated by the American Arbitration Association ("AAA"), and in accordance with the Ted Stevens Olympic and Amateur Sports Act ("ASA"), 36 U.S.C. §220505 et seq., and Section 9 of the United States Olympic Committee ("USOC") Bylaws, having been duly sworn, and having fully considered the Claimants' Demand for Arbitration as well as the parties' respective exhibits and witness testimony during a June 26, 2019 telephonic hearing, does hereby, AWARD, as follows:

**THE PARTIES**

Claimants are U.S. Army World Class Athlete Program soldier-athletes and members of USA Track & Field ("USATF") who were represented by their coach Scott Simmons, Colorado Springs, Colorado, during this proceeding. Benard Keter and Frankline Tonui compete in the men's 3,000m steeplechase, and Lawi Lalang competes in the men's 5,000m and 10,000m track events.

USATF is the National Governing Body ("NGB") for the sport of track and field in the United States, which is recognized by the USOC and the International Association of Athletics

Federations (“IAAF”). It was represented by Steven B. Smith, Suzanne A. Crespo, and Brent Rychener, Bryan Cave Leighton Paisner LLP, Colorado Springs, Colorado.

## **PROCEDURAL BACKGROUND**

On June 26, 2019, Claimants filed their “Demand for Arbitration” asserting that USATF was denying them the opportunity to participate in the 2019 Pan American Games and requesting the following relief: “removal of selected athletes from Team USA if selection was based upon 2018 performance marks and selection of athletes qualified based upon 2019 performance marks.” The only Affected Athletes identified by the Claimants in Attachment B of their June 25, 2019 Section 9 Complaint are Jordan Mann and Isaac Updike (selected to compete for Team USA in the men’s 3,000m steeplechase in the 2019 Pan American Games), Garrett Heath (selected to compete for Team USA in the men’s 10,000m in the 2019 Pan American Games), and Tyler Day (who competes in the men’s 5,000m, but was not selected for the 2019 Pan American Games).<sup>1</sup> Mr. Mann listened to part of the hearing, but he did not participate. None of the other athletes participated in or were represented during this proceeding.<sup>2</sup> Claimants’ arbitration demand did not request that the Arbitrator award them any arbitration costs.

On June 26, 2019 at 5:33pm MT, in an effort to notify all potentially affected athletes of this arbitration proceeding, USATF emailed the following notice to 39 track and field athletes whose names are listed in Attachment A:

### **NOTICE OF ARBITRATION HEARING THIS EVENING THAT COULD IMPACT PAN AM GAMES TEAM ROSTER –**

You are being notified as a potentially affected athlete whose status on the 2019 Pan American Games team could be impacted. Three athletes have filed a complaint through the USOC Bylaws regarding the selection of the 2019 Pan American Games team. The issue arises from the email USATF sent out on the afternoon of June 20 regarding the posted selection procedures and specifically, whether athletes would be selected based on 2018-2019 combined times, or 2019

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<sup>1</sup> It is unclear why Claimants identified Mr. Day as an Affected Athlete.

<sup>2</sup> Messrs. Updike and Heath are included in the list of 39 track and field athletes that USATF emailed notice of this arbitration proceeding, but Mr. Day’s name is not on this list.

times only. As you know USATF has asserted that their intention throughout was to broaden the pool and select athletes based on 2018-2019 times, which is how USATF's final roster was compiled. The athletes challenging the current roster have asserted that the selection procedures indicate that selection should be based on 2019 times only.

Because the final roster is due to the Pan American Games Organizing Committee this evening, there has been a request for an expedited hearing tonight, which will be final and binding on all athletes.

**As a potentially affected athlete**, you have a right to appear and participate as a party in the arbitration, and to be represented by counsel or another individual of your choice, if you so desire. You need not appear. 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.**

The Athlete Ombudsman will host a conference call at 6:00pm (MT) for all athletes interested in learning more and will outline how you could participate in the hearing later this evening. Please call in at 6:00pm (MT) if you wish to learn more at 888-431-3598 access code# 4795014. If you are not able to call in and wish to participate in the hearing, please email at [ombudsman@usathlete.org](mailto:ombudsman@usathlete.org) and we will respond asap with specifics around when and how to access the hearing.

We regret the short notice but only received the demand for arbitration this morning and are working against deadlines out of USATF's or the USOC's hands.

More information about the Section 9 and arbitration process can be found in Section 9 of the [USOPC bylaws](#).

*Kimberly Sims*

*Associate Director of International Teams*

*USATF*

On June 26, 2019 at 4:05pm MT, the AAA appointed the Arbitrator.

On June 26, 2019, a telephonic hearing was held, which began at 5pm MT.

During the hearing, Mr. Simmons testified on behalf of the Claimants (none of them participated in or testified during this proceeding) in his role as their coach. Dr. Jeff Porter

(Chairperson, USATF Athlete Advisory Council (“AAC”), and Member, USATF Board of Directors) and Aretha Thurmond (Managing Director of International Teams, USATF) testified on behalf of USATF. Claimants’ representative and USATF’s counsel stipulated that all of the parties’ respective documents, which were submitted directly to the Arbitrator by email before or during the hearing, are admissible.

The following athletes requested and were given an opportunity to testify during this proceeding: Imani Oliver, Riley Masters, Kenny Selmon, Deanna Price, Inika Mcpherson, and Curt Jensen; all of them except Inika Mcpherson are listed in Attachment A. In addition, Andy Stubbs (a representative for eight unidentified athletes) testified on their behalf. All six athletes and Mr. Stubbs testified that they knew and understood that USATF would be using athletes’ performance results from January 1, 2018 through June 10, 2019 for their respective track and field events in recommending/selecting members of the 2019 Pan American Games track and field team. No athletes similarly situated to the three Claimants (i.e., those who would have qualified for this team if only 2019 performance results for their respective track and field events were used) testified or requested the same relief sought by them in this proceeding.

Norm Wain (USATF’s General Counsel), Sara Pflipsen (Sr. Counsel NGB and Athlete Affairs, USOC), and Emily Azevedo (USOC Athlete Ombudsman Office) listened to the arbitration hearing as did Kacie Wallace (USOC Athlete Ombudsman), who listened to at least part of it.

At the conclusion of the hearing, Mr. Simmons agreed on behalf of the Claimants and USATF and its counsel agreed they had received a full and fair opportunity to be heard under the exigent circumstances of this case.

On June 26, 2019 at 7:48pm MT, the hearing was closed by the Arbitrator, who agreed to submit his Operative Award by 8pm MT to enable the USOC to comply with the Pan American Games Organizing Committee’s deadline later that evening for submitting the names of the USATF athletes who would compete for the U.S. in the 2019 Pan American Games.

On June 26, 2019 at 9pm CT, the Arbitrator rendered the following Operative Award:

It is undisputed that I have jurisdiction to resolve this Section 9 arbitration proceeding. Based on consideration of the parties’ respective exhibits, testimony,

and arguments, I must conclude that Section [1.2.1] of the published USA Track & Field Selection Procedures for the 2019 Pan American Games, which were approved by the United States Olympic Committee, expressly require[s] that [the] 2019 U.S. Performance Rank Order List (Comprehensive) is required to be used to select the team. Therefore, Claimants are entitled to be selected for the 2019 Pan American Games if they satisfy the requirements of this provision and all other applicable requirements.

Subsequently, by communications initiated through AAA, USATF and the USOC sought clarification of the Operative Award from the Arbitrator to ensure compliance with it when submitting the final roster of track and field athletes who would compete for the U.S. in the 2019 Pan American Games. The Arbitrator confirmed that his award provided relief only to the three Claimants by determining that based on the evidence of record and particular issues raised in this arbitration proceeding, they “are entitled to be selected for the 2019 Pan American Games if they satisfy the requirements of [Section 1.2.1 of the published USA Track & Field Selection Procedures for the 2019 Pan American Games] and all other applicable requirements.”

Recognizing that an arbitration award may have collateral estoppel or res judicata effects in a subsequent arbitration proceeding involving one or more of the same parties as well as the same facts and issues, the Arbitrator stated that his Operative Award is narrow because different material facts or issues may justify a different conclusion regarding whether or not USATF track and field athletes who compete in events other than the men’s 3,000m steeplechase, 5,000m, or 10,000m track events are entitled to the same relief as Claimants in a future Section 9 arbitration proceeding. Because this issue was not raised before the hearing in this arbitration proceeding was closed (), the Arbitrator also noted that this proceeding did not require adjudication of the rights of any affected athletes under Section 9.8 of the USOC Bylaws other than Jordan Mann, Isaac Updike, Riley Masters, Shadrack Kipchirchir, and Garrett Heath (who each were selected by USATF to compete in either the men’s 3,000m steeplechase, 5,000m, or 10,000m track events in the 2019 Pan American Games and were emailed notice of this proceeding).

On June 30, 2019, pursuant to AAA Commercial Rules R-50 (“Modification of Award”), the Claimants filed a motion requesting reimbursement of the AAA administrative fees (\$1,000) and the cost of the arbitrator compensation (\$1,000) they paid when filing their arbitration demand:

The conduct that gave rise to the demand for arbitration was directly the result of the conduct of USA Track & Field. The claimants bore no responsibility for the decisions that were made by or the actions that were taken by USA Track & Field. Justice requires that USA Track & Field should bear the burden of the costs of its actions.

On July 2, 2019, USATF objected to Claimants' motion by asserting that : 1) R-50 does not provide for the allocation of arbitration costs among the parties, and therefore, does not support their motion; 2) "USATF worked diligently to ensure Claimants received a timely hearing"; and 3) although R-47 ("Scope of Award") authorizes the Arbitrator to apportion arbitration costs as deemed appropriate, USATF should not bear these full costs because "it is prejudicial to USATF for Claimants to raise this issue now, after the hearing has taken place, the operative award has issued, and the final reasoned award is about to issue" and "[r]outine facts such as these do not support fee-shifting, and Claimants have not alleged other circumstances that could."

On July 2, 2019, Claimants responded by contending that *McCandless v. USATF*, AAA Case No. 10-15-0004-2085 (February 29, 2016) supports its motion to be awarded its arbitration costs.

## **JURISDICTION**

It is undisputed that the Arbitrator has jurisdiction to resolve this team selection dispute pursuant to the ASA, 36 U.S.C. §220522(a)(4)(B), and Section 9 of the USOC Bylaws because Claimants assert that USATF has denied them the opportunity to participate in the 2019 Pan American Games, which is a "protected competition" under Section 1.3 (w) of the USOC Bylaws. Section 9.7 of the USOC Bylaws provides that "[i]f the complaint [under Section 9.1] is not settled to the athlete's satisfaction the athlete may file a claim with the AAA against the respondent for final and binding arbitration." Section 9.9 of the USOC Bylaws permits this arbitration proceeding to be expedited.

## **UNDISPUTED AND/OR FINDINGS OF MATERIAL FACTS**

Pursuant to the ASA, the USOC has "exclusive jurisdiction, directly or through constituent members [e.g., NGBs] . . . "over all matters pertaining to United States participation in the Olympic Games, the Paralympic Games, and the Pan-American Games, including

representation of the United States in the games.” 36 U.S.C. §220503(3)(A). The USOC has both the authority and responsibility “to obtain for the United States, directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each event of the Olympic Games, the Paralympic Games, and the Pan-American Games.” 36 U.S.C. §220503(4). The USOC is authorized “(i) to approve or disapprove selection procedures recommended by NGBs” for the Olympic, Paralympic, and Pan-American Games. USOC Bylaws, Section 19.3.

As the NGB for the sport of track and field, USATF is authorized to “establish procedures for the determination of eligibility standards for participation in competition” and to “recommend to the [USOC] individuals and teams to represent the United States in the . . . Pan-American Games . . . .” 36 U.S.C. §220523(a)(5)-(6). In exercising this authority, USATF is required to “establish a written procedure . . . thereafter approved by the [USOC], to fairly select athletes . . . for the . . . Pan American Games teams, and, upon approval, timely disseminate such procedure to the athletes.” USOC Bylaws, Section 8.7(g).

In relevant part, the published USA Track & Field Athlete Selection Procedures Pan American Games Lima, 2019 (Track & Field) (“2019 Pan American Games Athlete Selection Procedures”), which were approved by the USOC and are dated December 13, 2019 [sic],<sup>3</sup> provide as follows:

## **1. SELECTION SYSTEM**

1.1 Provide the minimum eligibility requirements for an athlete to be considered for selection to the Team:

...

1.1.3 Minimum International Federation (IF) and/or Continental Federation (CF) (PAG and PPAG only) standards for participation (if any):

...

### Individual Event Standards

Each National Olympic Committee will be able to enter a maximum of two (2) athletes in each individual event provided that they have met the

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<sup>3</sup> It is undisputed that the correct date should be December 13, 2018.

2019 Pan American Games Qualifying Mark (see Attachment A) between January 1, 2018 and midnight (Peru time) of June 23, 2019.

1.1.4 Other requirements (if any):

- Athletes must be USA Track & Field (USATF) members in good standing at the time of the selection through the end of the 2019 Pan American Games

...

1.2 Tryout events:

- 1.2.1 Provide the event names, dates and locations of all trials, events and camps to be used as part of the selection process.

Individual events

Individual event athletes will be selected using the 2019 U.S. Performance Rank Order List (Comprehensive) non-wind aided results as of Monday June 10, 2019 (midnight Eastern Standard Time (EST)).

The 2019 U.S. Performance Rank Order List (Comprehensive) can be found at <http://www.usatf.org/statistics/topMarks/index.aspx>.

- 1.3 Provide a comprehensive, step-by-step description of the method that explains how athletes will go through the selection process . . .

Individual Events

Due to the entry deadline (June 22, 2019), as well as the USATF's Senior Championships being held on July 25-28, 2019, USATF will not have the opportunity to allow athletes to earn Pan American Games quota selection slots in head to head competition.

Therefore . . . in individual events the two highest ranked athletes from the 2019 U.S. Performance Rank Order List (Comprehensive) non-wind aided results as of Monday June 10, 2019 (midnight Eastern Standard Time (EST)) will be selected to the 2019 Pan American Team provided they have achieved the Pan American Games Minimum Qualifying Mark and meet the requirements in Section 1.

The qualifying window for the Minimum Qualifying Mark is January 1, 2018—June 23, 2019.

Notification Process:



The two highest ranked athletes from the 2019 U.S. Performance Rank Order List (Comprehensive) non-wind aided results for each individual event will be invited to compete at the Pan American Games by email starting on June 11, 2019. . . .

The term “Comprehensive” as used in the 2019 Pan American Games Athlete Selection Procedures means indoor and outdoor competition results in the same calendar year (e.g., 2019), not results in consecutive years (e.g., 2018 and 2019).

As agreed to by USATF’s High Performance Committee and Athletes Advisory Council, initial drafts of the 2019 Pan American Games Athlete Selection Procedures stated that track and field results from January 1, 2018- June 10, 2019 would be used to select athletes to compete in individual events in the 2019 Pan American Games. USATF as well as many of its member athletes wanted 2018 competition results (including 2018 U.S. and IAAF track and field championships results) to be included because the 2019 U.S. and IAAF track and field championships would not be held until after the 2019 Pan American Games. This language subsequently was either deleted by the USOC or was inadvertently omitted from the USOC-approved December 13, 2018 finalized version.

In October 2018, USATF took steps to inform its member athletes that 2018 competition results would be used in selecting the 2019 Pan American Games team by notifying the approximately 100 athletes who attended the USATF AAC annual meeting, posting notices on its Slack System App (used by approximately 300 athletes), and emailing athletes. During the hearing USATF submitted emails from several athletes evidencing that they knew 2018 as well as 2019 competition results would be used in selecting the 2019 Pan American Games team. There is no evidence that all of the approximately 1,000 USATF member athletes (including intercollegiate athletes and U.S. Army World Class Athlete Program soldier-athletes) who participate in track and field events in which their competition results may qualify them to be selected to participate in the 2019 Pan American Games had actual or constructive knowledge that 2018 competition results would be used.

Mr. Simmons testified without any contradiction that Messrs. Keeter, Tonui, and Lalang did not know that 2018 competition results would be used in selecting the 2019 Pan American

Games team as well as that the specific 2019 competitions in which each of them participated likely would have been different if they had this knowledge.

In selecting its 2019 Pan American team that was announced on June 24, 2019, USATF used competition results from both the 2018 U.S. Performance Rank Order List (Comprehensive) and the 2019 U.S. Performance Rank Order List (Comprehensive) to select athletes to compete in the men's 3,000m steeplechase, 5,000m, and 10,000m events as well as other individual events. Despite the express language of Section 1.2.1, USATF did so in a good faith effort to select the most competent track and field team for the 2019 Pan American Games. Because they had the two best individual competition results from January 1, 2018-June 10, 2019, USATF selected Jordan Mann and Isaac Updike to compete in the men's 3,000m steeplechase. For the same reason, it selected Riley Masters and Shadrack Kipchirchir to compete in the men's 5,000m, and Garrett Heath and Reid Buchanan to participate in the men's 10,000m.<sup>4</sup>

Based on the 2019 U.S. Performance Rank Order List (Comprehensive) at <http://www.usatf.org/statistics/topMarks/index.aspx>, which does not include 2018 track and field competition results, it appears that USATF should have selected Benard Keter and Frankline Tonui to compete in the men's 3,000m steeplechase and possibly Lawi Lalang to compete in the men's 5,000m and/or 10,000m track events in the 2019 Pan American Games if each of them individually satisfies the other applicable requirements of the 2019 Pan American Games Athlete Selection Procedures.

## LEGAL ANALYSIS

The sole issue for resolution in this arbitration proceeding is whether Messrs. Keter, Tonui, and/or Lalang are entitled to be selected to compete in their respective track and field events based on USATF's 2019 Pan American Games Athlete Selection Procedures, specifically the 2019 U.S. Performance Rank Order List (Comprehensive).

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<sup>4</sup> Messrs. Mann, Updike, Masters, Kipchirchir, and Heath are included in USATF's list of 39 impacted track and field athletes who were emailed notice of this arbitration proceeding, but Mr. Buchanan's name is not on this list.

Claimants contend that the 2019 Pan American Games Athlete Selection Procedures create a contract right pursuant to which each of them is entitled to be individually selected to compete in the 2019 Pan American Games in their respective track and field events. They contend that Section 1.2.1 requires that USATF use only competition results from January 1-June 10, 2019, which each of them detrimentally relied on in choosing to participate in their respective track and field events during this time period. They contend that USATF's breach of Section 1.2.1 by using competition results from January 1, 2018-June 10, 2019 (which none of them knew would be done) denied each of them the opportunity to compete in the 2019 Pan American Games in their respective track and field events.

In response, USATF asserts that its High Performance Committee and Athletes Advisory Council agreed that competition results from January 1, 2018-June 10, 2019 should be used in selecting track and field athletes to participate in the 2019 Pan American Games. It asserts that initial drafts of Section 1.2.1 had language evidencing its intention to do so in order to ensure selection of the most competent track and field team to participate in the 2019 Pan American Games. USATF asserts it used reasonable efforts to inform its member athletes that competition results from January 1, 2018-June 10, 2019 would be used to achieve this objective. USATF asserts that Section 1.2.1 should be construed to permit it to use competition results during this period of time in order to be fair to all track and field athletes (most of whom knew and understood that 2018 competition results counted) and to avoid any potential adverse effects on the performance of its 2019 Pan American Games team.

In a Section 9 team selection dispute, it is well established that athlete claimants have the burden of proving by a preponderance of evidence their claimed denial of a fair opportunity to compete for selection as a member of a team that will participate in a "protected competition" (i.e., 2019 Pan Am Games). *Tibbs v. United States Paralympics*, AAA Case No. 71 190 E 00406 12 (August 28, 2012) at 14 (citing several prior Section 9 awards). "Section 9 jurisprudence requires [them] to prove [USATF] breached its approved and published Athlete Selection Procedures for the [2019 Pan Am Games], applied them inconsistently to athletes similarly situated, acted in bad faith towards or with bias against [them], and/or violated applicable federal or state laws (e.g., Ted Stevens Olympic and Amateur Sports Act)." *Id.* See also *Komanski v.*

*USA Cycling*, AAA Case No. 01-15-0004-9907 (Nov. 15, 2015) at 5 (adopting this substantive standard for evaluating the merits of a team selection dispute).

Although not expressly incorporated or referenced therein, “[i]t is well accepted that the [arbitral] standard of review for cases arising under Section 9 of the USOC Bylaws is de novo.” *Komanski* at 5. “In exercising de novo review in a team selection dispute, the arbitrator ensures that: 1) the athlete is given adequate procedural due process by providing a full and fair opportunity to be heard regarding his claims; and 2) the merits of an NGB’s challenged decision comply with the foregoing requirements of the law of private associations by analyzing whether its athlete selection procedures are valid; were followed and applied consistently; its discretionary decision was rational/reasonable (i.e., not arbitrary or capricious) and in good faith (i.e., without any bad faith or bias); and complies with applicable federal and state laws.” *Liu and USA Table Tennis, Inc.*, AAA Case No. 01-19-0002-0105 (June 20, 2019) at 17.

Based on Mr. Simmons’ acknowledgement, the Arbitrator finds that the Claimants full and fair opportunity to be heard in this arbitration proceeding.

It is undisputed that the express provisions of the 2019 Pan American Games Athlete Selection Procedures are valid, but the Arbitrator determines that USATF breached Section 1.2.1 (whose relevant language is the same as in Section 1.3) by using competition results from the 2018 U.S. Performance Rank Order List (Comprehensive) in addition to the 2019 U.S. Performance Rank Order List (Comprehensive) to select athletes to compete in the men’s 3,000m steeplechase, 5,000m, and 10,000m events in the 2019 Pan American Games. This breach of USATF’s team selection rules denied the three Claimants the opportunity to participate in the 2019 Pan American Games, especially because they did not know that USATF would use 2018 competition results in selecting its team and they detrimentally relied on the express language of Section 1.2.1 providing that only competition results from January 1-June 10, 2019 would be used. *Hyatt and United States Judo, Inc.*, AAA Case Number: 01-14-0000-7635 (June 27, 2014) at 11 (“team selection rules create the legitimate expectation that an athlete who satisfies the published qualification criteria will be selected for the team”). Therefore, the Arbitrator determines that each of them is entitled to be individually selected to compete in the 2019 Pan American Games in their respective track and field events in accordance with Section 1.2.1 if he individually satisfies the requirements of this provision and

all other applicable team selection requirements.

Regarding Claimants' motion to be awarded their \$2,000 in arbitration costs incurred, their Demand for Arbitration did not check the "Arbitration Costs" box under its section titled "Other Relief Sought," which apparently is why they are seeking to recover these costs under R-50 ("Modification of Award"), which does not address allocation of arbitration costs between the parties. In *McCandless v. USATF*, AAA Case No. 10-15-0004-2085 (February 29, 2016) at 12, the arbitrator explained that "under AAA Commercial Rules R-50, in the absence of an agreement among arbitrating parties to the contrary, the arbitrator has discretion to assess and award arbitrator and arbitral institution fees and expenses in the final award." Pursuant to R-47 (c), in the final award, the Arbitrator "shall assess the fees, expenses, and compensation provided in Sections R-53 ["Administrative Fees"] . . . and R-55 ["Neutral Arbitrator's Compensation"] and "may apportion such fees, expenses, and compensation among the parties in such amounts as the arbitrator determines is appropriate." The *McCandless* arbitrator determined that the entire AAA filing fees and arbitrator compensation should be borne by USATF because of his finding that its application of its team selection procedures was "grossly negligent" rather than a "mistake in the sense of reasonably applying selection procedures where there might be a difference of opinion." *Id.* at 11.

In *Hyatt and United States Judo, Inc.*, AAA Case Number: 01-14-0000-7635 (June 27, 2014) at 12, in which the athlete claimant prevailed because a National Governing Body violated its own team selection rules, this Arbitrator ruled that "USA Judo is responsible for the costs of the AAA filing fees and the Arbitrator's compensation for this arbitration proceeding and is required to reimburse Ms. Hyatt for the amount that she has paid to AAA."

Although the three Claimants prevailed in this proceeding because USATF breached its 2019 Pan American Games Athlete Selection Procedures, the Arbitrator determines that the extremely expedited circumstances of this case (particularly USATF's diligence to ensure they received a timely hearing) and its very unique aspects (none of them participated in or testified in this case; their coach represented and testified on their behalf) weigh against requiring USATF to bear all of the arbitration costs of this arbitration. All things considered, the Arbitrator concludes it is appropriate and just to require USATF to reimburse Claimants only for the AAA

administrative fees of \$1,000 that they incurred. Claimants should bear their \$1,000 cost of the Arbitrator's compensation.

### **DECISION AND AWARD**

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

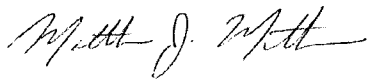
USATF shall select each of the three Claimants as members of its 2019 Pan American Games team in their respective track and field events in accordance with Section 1.2.1 if he individually satisfies the requirements of this provision and all other applicable team selection requirements.

USATF is responsible for the entire amount of the AAA filing fees and shall reimburse Claimants for the \$1,000 they paid to AAA.

The parties shall bear the cost of the Arbitrator's compensation equally and as incurred.

All parties shall bear their own attorneys' fees and costs associated with this arbitration.

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



July 2, 2019

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Matthew J. Mitten, Arbitrator

FIRST NAME	LAST NAME
Olivia	Baker
Zack	Bazile
Chris	Benard
Logan	Boss
Aaron	Braun
Quanesha	Burks
Cameron	Burrell
Nick	Christie
Shania	Collins
Hiawatha	Culver
Paul	Dedewo
Jarret	Eaton
Kaela	Edwards
Allison	Halverson
Garrett	Heath
TJ	Holmes
Andrew	Hudson
Lynna	Irby
Curtis	Jensen
Devin	King
Shadrack	Kipchirchir
Marie	Lawrence
Jordan	Mann
Riley	Masters
Sam	Mattis
Bryan	McBride
Inika	McPherson
Sharika	Nelvis
Courtney	Okolo
Imani	Oliver
Deanna	Price
Monique	Riddick
Samantha	Roecker
Bethany	Sachtleben
Kenny	Selmon
Cassandra	Tate
Isaac	Updike
Capers	Williamson
Alex	Young

**ATTACHMENT A**