

Case: trib_2023/05

Suspension of proceedings

by the

Chairperson of the Boxing Independent Integrity Unit's Tribunal,

on

05 December 2023

regarding

disciplinary proceedings

involving

Tyson Lee, USA Boxing,

tyson@vetindustries.com ; mmcatee@usaboxing.org ; stephen@stephenahess.com

and

Richard Torrez Jr, USA Boxing,

stephen@stephenahess.com ; mmcatee@usaboxing.org,

- Accused Parties -

and

McLaren Independent Investigation Team,

McLaren Global Sports Solutions Inc., Ontario, Canada

richard.mclaren@mckenzielake.com

- Investigation and Prosecution Officer -

and

the International Boxing Association,

represented by its Secretary General / Chief Executive Officer,

chris.roberts@iba.sport ; info@iba.sport

- Complainant -

I. Parties

1. According to Art. 16 of the Boxing Independent Integrity Unit Procedural Rules adopted by the IBA Board on 05 November 2022 (BIUUPR 2022) [equivalent to Art. 18 of the Boxing Independent Integrity Unit Procedural Rules adopted by the IBA Board on 25 August 2023 (BIUUPR Current)], the parties are the accusing and the accused party.
2. According to Art. 16 BIUUPR 2022, the accused party is a person bound by the International Boxing Association (IBA) Disciplinary and Ethics Code enshrined at its Art. 2, who allegedly committed a breach of the regulations made by the IBA Board in accordance with the IBA Constitution.
3. IBA (Complainant) who originally submitted a complaint referred that Mr. Tyson Lee and Mr. Richard Torrez Jr breached:
 - Article 5.2 of the IBA Membership Policy adopted by the IBA Board at its meeting on 22 January 2021, and amended on 31 January 2022.
 - Article 11.1(h) of the IBA Constitution adopted on the occasion of the IBA Virtual Congress Meeting, on 13 December 2020 and amended on the occasion of the IBA Virtual Extraordinary Congress Meeting, on 12 December 2021 and on the occasion of the IBA Hybrid Ordinary Congress Meeting, on 11 December 2022.
 - Article 19 of the Disciplinary and Ethics Code adopted by the IBA Board on 05 November 2022 (Disciplinary and Ethics Code 2022) [equivalent to Article 20 of the Disciplinary and Ethics Code adopted by the IBA Board on 15 July 2023 (Disciplinary and Ethics Code Current)]. Disparagement of IBA's Reputation and Interests.
 - Article 40 of the Disciplinary and Ethics Code 2022 [equivalent to Article 41 of the Disciplinary and Ethics Code Current]. Participation in other international boxing associations or organisations.
4. Mr. Tyson Lee and Mr. Richard Torrez Jr (Accused Parties) are the parties accused by the Complainant. The Accused Parties are individuals associated with USA Boxing. USA Boxing withdrew its IBA membership as per its letter dated 26 April 2023.
5. The McLaren Independent Investigation Team (MIIT) is the Accusing party, who is appointed as an Investigation and Prosecution Officer (IPO) responsible for investigating and prosecuting the case in accordance with Art. 23 and Art. 24 BIUUPR 2022 [equivalent to Art. 25 and Art. 26 BIUUPR Current], based on the aforesaid complaint.

II. Factual background

1. On 25 April 2023, the Complainant filed a complaint against the Accused Parties and other persons and namely requested what follows:

"The IBA Head Office kindly requests the Tribunal to open formal proceedings against those who illegitimately participate in another international boxing organisation herein identified and against those who can be identified in the future with the investigation by the IPO."

According to the Complainant, the Accused Party and other federations, boxers and officials participated in another association that intends to govern amateur boxing worldwide and alleged as follows:

"I am writing ... to denounce the participation of affiliated members, including National Federations ("NFs"), Boxers and Officials, in a recent created association that intends to govern amateur boxing worldwide, namely World Boxing (Home - World Boxing), wishing to replace International Boxing Association ("IBA").

(...)

If the participation of the individuals, Boxers and Officials, and National Federations in the parallel international boxing federation is proven, this constitutes a serious breach and violations of the IBA Constitution, IBA Membership Policy and IBA Disciplinary and Ethics Code.

(...)

On 14 April 2023, IBA sent a letter to each of the individuals, Boxers and Officials, and to the National Federations allegedly involved to request clarification of their participation in World Boxing and granting until 17 April 2023 to reply”, but they did not submit a response.

2. Also, in the same complaint, the Complainant requested the imposition of provisional measures.
3. USA Boxing withdrew its IBA membership as per its letter dated 26 April 2023.

III. Proceedings

1. Disciplinary proceedings against the Accused Parties were opened on 31 May 2023 by the Chairperson (Tribunal Chairperson) of the Boxing Independent Integrity Unit’s (BIIU) Tribunal (Tribunal) as a result of the Complainant’s letter dated 25 April 2023. These proceedings are related to alleged breaches of Art. 5.2 of the IBA Membership Policy, Art. 11.1(h) of the IBA Constitution, Art. 19 (Disparagement of IBA’s Reputation and Interests) and Art. 40 (Participation in other international boxing associations or organisations) of the Disciplinary and Ethics Code 2022.
2. On 24 October 2023, the Chairperson issued a decision on request for provisional measures deciding to dismiss the request for provisional measures by the Complainant.

IV. Submissions of the parties

1. On 2 June 2023, the Accused Parties submitted their responses to the Complainant’s request for provisional measures, stating that : “(..) *the USA Boxing terminated its relationship with IBA as a National Federation effective 26 April 2023. None of the individuals associated with USA Boxing has any present position with IBA, and it is my clients' position that IBA need not (and should not) purport to exercise jurisdiction over them*”.
2. The IPO did not provide any submission yet.

V. Jurisdiction

1. According to Art. 25.1 of the BIUU Rules adopted by the IBA Board on 23 September 2022, the Tribunal has jurisdiction to hear cases where a breach of the regulations made by the IBA Board in accordance with the IBA Constitution, allegedly accrued.

According to Art. 9.1 BIUUPR 2022 [equivalent to Art. 11.1 BIUUPR Current], the Tribunal shall declare whether it is competent to hear the case.

2. On 25 April 2023, the Complainant filed a complaint against the Accused Parties.

Disciplinary proceedings against the Accused Parties were opened on 31 May 2023 by the Tribunal Chairperson as a result of the aforementioned complaint. The proceedings are related to alleged breaches of Art. 5.2 of the IBA Membership Policy, Art. 11.1(h) of the IBA Constitution, Art. 19 (Disparagement of IBA’s Reputation and Interests) and Art. 40 (Participation in other international boxing associations or organisations) of the Disciplinary and Ethics Code 2022.

3. The Complainant’s complaint relates to an alleged breach of the IBA regulations by the Accused Parties.
4. According to Art. 2.2 Disciplinary and Ethics Code 2022 [equivalent to Art. 2.2 Disciplinary and Ethics Code Current], the Tribunal is entitled to investigate and judge the conduct of the accused party who was bound by the applicable Disciplinary and Ethics Code at the time the relevant conduct occurred, irrespective of USA Boxing subsequent withdrawal from IBA.

VI. Applicable Law

1. According to Art. 10 BIIUPR 2022 [equivalent to Art. 12 BIIUPR Current], in their application and adjudication of law, the Tribunal shall apply the IBA Constitution as well as the regulations made by the IBA Board in accordance with the IBA Constitution, and, subsidiarily, Swiss law.
2. According to Art. 93.3 BIIUPR Current: *“The procedures which are pending before adoption of these Procedural Rules remain subject to the IBA Procedural Rules approved by the IBA Board on 8 April 2021 and 5 November 2022 respectively, unless both Parties request the application of these Procedural Rules. In case the IBA Procedural Rules approved by the IBA Board on 8 April 2021 and/or 5 November 2022 do not regulate any matter significant for the proceedings, these Procedural Rules shall apply”.*
3. Since the disciplinary proceedings against the Accused Parties were opened on 31 May 2023, the BIIUPR 2022 shall be applied to these proceedings.
4. According to Art. 52.2 of the Disciplinary and Ethics Code Current: *“This Code applies to any Disciplinary or Ethics proceedings which have been formally opened after the date when this Code came into force. Any offence shall be governed by the substantive rules in force on the date of which the offence has been committed, unless the principle of lex mitior applies (implying that this Code is more favourable to the offender than prior regulations).”*
5. Since it is alleged by the Complainant that the breaches of the Accused Parties were conducted on 13 April 2023, the Disciplinary and Ethics Code 2022 shall be applied in these proceedings.
6. According to Art. 31 BIIUPR 2022 [equivalent to Art. 33 BIIUPR Current], the Tribunal Chairperson may at his own initiative or upon request, suspend the proceedings at any point if he considers it necessary to do so.

VII. Merits

1. According to Art. 31 BIIUPR 2022, the Tribunal Chairperson may at his own initiative suspend the proceedings at any point if he considers it necessary to do so.
2. Considering that USA Boxing withdrew its IBA membership as per its letter to IBA dated 26 April 2023.
3. Considering that the Accused Parties do not appear to hold any position in the IBA or its Confederations.
4. In light of the above, the Tribunal Chairperson is of the opinion that the proceedings should be suspended. If, in the future, the Accused Parties request or petition to become subject to the IBA jurisdiction or seeks to become a coach, official or affiliate of any National Federation in any capacity, the Tribunal may reopen this matter for the purpose of considering if any sanction should be imposed based on the current proceedings.

VIII. Costs

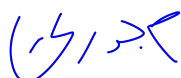
1. According to Art. 45 BIIUPR 2022 [equivalent to Art. 47 BIIUPR Current], no procedural costs shall be imposed. The Tribunal therefore does not impose procedural costs.
2. According to Art. 46 BIIUPR 2022 [equivalent to Art. 48 BIIUPR Current], no costs of the parties related to the proceedings are awarded. Therefore, the parties shall bear their own costs incurred by this procedure.

**The Boxing Independent Integrity Unit's Tribunal's Chairperson
decides what follows.**

1. The parties are notified about the suspension of the proceedings. If, in the future, the Accused Parties request or petition to become subject to the IBA jurisdiction or seeks to become a coach, official or affiliate of any National Federation in any capacity, the Tribunal may reopen this matter for the purpose of considering if any sanction should be imposed based on the current proceedings.
2. No procedural costs are imposed.
3. The parties shall bear their own costs incurred by this procedure.
4. The present decree is notified to the Parties and the Complainant by email, immediately.

Yours sincerely,

Boxing Independent Integrity Unit's Tribunal



Malek Badri, Chairman

Copy by email to:

- Boxing Independent Integrity Unit, Managing Director, director@biu.sport