

UMCA Appeal Policy

In October, 2004, UMCA President Tom Buckley appointed a committee to review the UMCA Appeal Policy and to recommend changes: Peter Lekisch, chair, (director of the Fireweed races) John Ceceri (director of the Adirondack 540 and Saratoga 12/24), Joe Jamison (chair of the John Marino Competition), Jim Pitre (director of RAAM) and Jennifer Wise (director of the Boston-Montreal-Boston 1200K.) The committee recommended the following Appeal Policy which was approved by the Board of Directors by a vote of 15 to 0 on January 25, 2005

Preamble

The purpose of the UMCA Appeal Policy is to provide a process for resolving disagreements between a member of the UMCA, Inc and an officer or agent of the UMCA, Inc.

Race organizers conduct their races in accordance with any necessary or stated rules applicable to their races and sort out any irregularities, disqualifications, adjustments of time and so forth before submitting the results to the UMCA. The UMCA will not arbitrate disputes between race organizers and participants except in the following situations:

1) Race Across America (RAAM) If a rider believes that a race official has made a decision that a) violated the event rules and b) was unfair to the rider then the rider may appeal the decision to the RAAM director. If the issue potentially affects the awarding of prizes, then at least 12 hours before such payment or award is scheduled to be made, the rider must give to the RAAM director a written notice of intent to appeal. The decision of the RAAM director is final unless the decision also affects the rider's finishing position, in which case the rider may appeal to the UMCA using the Appeal Process described herein.

2) UMCA-Sanctioned RAAM Qualifiers If a rider believes that a race official has made a decision that a) violated the event rules and b) was unfair to the rider then the rider may appeal the decision to the race director. The decision of the race director is final unless the decision also affects the rider's qualifying for RAAM, in which case the rider may appeal to the UMCA using the Appeal Process.

A race director may appoint a race jury, a body of disinterested and impartial officials, to review a challenge by a participant that another race official's decision adversely affected the participant. The decision of the race jury is final unless the decision affects the rider's qualifying for RAAM, in which case the rider may appeal to the UMCA using the Appeal Process.

(Riders may also use 1200K randonnées to attempt to qualify for RAAM; however, these events are not sanctioned by the UMCA and this Appeal Policy does not apply.)

3) John Marino Competition (JMC) If a JMC participant believes that the JMC chair has made a decision that a) violated the JMC rules and b) was unfair to the rider and c) affected the JMC participant's standings, then the JMC participant will discuss and attempt to resolve the issue with the JMC chair. If the participant and the chair cannot resolve the issue, then the participant may appeal to the UMCA using the Appeal Process.

4) UMCA Mileage Challenge (UMC) If a Mileage Challenge participant believes that a Mileage Challenge official has made a decision that a) violated the Mileage Challenge rules and b) was unfair to the participant and c) affected the participant's standings, then the UMC participant will discuss and attempt to resolve the issue with the UMC chair. If the participant and the chair cannot resolve the issue, then the participant may appeal to the UMCA using the Appeal Process.

5) UMCA Records If a rider attempting to set a UMCA record believes that the official for the record attempt made a decision that a) violated the Records Attempt rules and b) was unfair to the rider and c) prevented the rider from setting a new record, then the rider may appeal the decision to the Records Chair. If the rider and the Records Chair cannot reach resolution, then the rider may appeal to the UMCA using the Appeal Process.

6) UMCA Bylaws If a UMCA member thinks that a UMCA officer has violated the Bylaws of the corporation in a way that materially and substantially affects the general membership of the UMCA, then the member (Appellant) may appeal to the UMCA using the Appeal Process.

The Appeal Policy applies only in the above situations.

For purposes of the Appeal Process, the following special terms and conditions shall apply:

a) The term "disinterested" shall mean a person who will not be personally affected by the outcome of an investigation or panel hearing and none of whose relatives or significant other will be affected by the outcome.

b) The term "impartial" shall mean a person who harbors no prejudice towards or preconceived notions about any of the parties to the process. For example, should a Party believe that the Managing Director is

not “disinterested” and “impartial” according to these definitions, a Party shall communicate directly with the President of the Board of Directors. In this case for the remainder of the Appeals Process, all references to the “Managing Director” will be replaced with the “President of the Board of Directors” when the substitution is appropriate.

c) The term “serve” or “service” shall mean and be accomplished by hand delivery; mailing by certified mail, postage prepaid, return receipt requested; or by overnight delivery by a recognized courier that maintains a record of the delivery, such as Federal Express. Serve shall be deemed given upon the earliest of hand delivery, three business days after mailing or one business day after sending by overnight delivery.

Appeal Process

I. Discussion.

The first step in the Appeal Process is for the UMCA member (“Appellant”) to make a good faith effort to discuss the facts with the race director or UMCA officer or chair (“Respondent”) and to attempt to resolve the issues. If the Appellant makes a good faith effort and is unable to resolve the issues, then the Appellant may proceed with the Appeal Process.

II. Filing the Written Appeal.

The second step is for the Appellant to file a written appeal (Complaint) with the UMCA Managing Director at his principal place of business. To be considered for resolution through the Appeals Process, the Appellant must:

- a) serve the Complaint within two weeks of the alleged grievous action or the end of the specific event in which the alleged grievous action occurred, whichever is later;
- b) provide written evidence of Appellant’s good faith effort to resolve the issues with the Respondent in step I. Discussion;
- c) state the facts and the UMCA rules and policies, as well as the unfairness of the action, which support the Appellant’s position; and
- d) request that the UMCA Managing Director take a specific action or make a specific change.

The Complaint must be accompanied with an Appeals Process Deposit of \$300.00 (payable to the UMCA, Inc). If the Report of the Investigator in III. Processing the Appeal finds in favor of the Appellant, then the Deposit shall be promptly refunded.

Upon receipt of the Complaint, the Managing Director shall promptly:

- a) serve the Appellant a notice acknowledging receipt of the Complaint;
- b) review the Appellant’s written evidence of a good

faith effort to resolve the Complaint with the Respondent.

If the Appellant has presented evidence of a good faith effort to resolve the complaint with the Respondent, then the Managing Director shall promptly serve the Respondent a copy of the Complaint.

The Respondent shall within two weeks of the receipt of a copy of the Complaint serve the UMCA Managing Director with a responsive written statement (Response), which Response shall include:

- a) a description of the original decision or action, and
- b) the facts, UMCA rules and policies, including the fairness of the decision or action, supporting the Respondent’s original decision or action.

If the Managing Director finds that the Appellant has not made the good faith effort required in I. Discussion, then the Managing Director shall promptly serve the Appellant with Notice for Evidence that the Complaint is remanded to the Appellant to attempt to resolve with the Respondent.

Appellant shall have two weeks from the date receipt of the Notice for Evidence to again discuss the issue with the Respondent and to present written documentation of that good faith effort to the Managing Director. If the Appellant fails to present this evidence within two weeks, the Appeal is barred, unless the Appellant can show extenuating circumstances.

III. Processing of the Appeal.

Investigation. Upon receipt of the Response, the Managing Director shall promptly:

- a) appoint a disinterested and impartial member of the UMCA to investigate the Appeal (Investigator);
- b) serve the Parties written notice acknowledging receipt of both the Complaint and the Response (the Pleadings), giving the Appellant a copy of the Response;
- c) provide the Parties with the name of the Investigator and the schedule of the Investigation. The Investigator shall attempt to conclude the Investigation within two weeks from the date of his or her appointment.

Should either Party believe that the Investigator is not disinterested and impartial, he or she will so inform the Managing Director of his or her reasons for requesting a new Investigator. In this case, the Managing Director will either appoint a new Investigator or request that the President appoint a new Investigator.

The Investigator shall review the Complaint and Response as well as all relevant information, including the UMCA rules and policies, and/or shall interview the Parties and/or other persons having information related directly to the subject matter of the Appeal. The Investigator shall conclude the Investigation by preparing a written summary of the Investigation and recom-

mending an appropriate disposition of the matter (Report), which Report will be given to the Managing Director.

IV. Mediation of the Appeal

The Managing Director shall serve the Parties with a copy of the Report. Without being limited by the Report of the Investigator, the Managing Director may attempt to mediate the dispute to the satisfaction of the Appellant and Respondent. If the mediation is successful, then the agreed upon resolution shall be documented in writing and signed by the Appellant, the Respondent and the Managing Director.

If the Investigator's Report concludes the Appeal is without substantive merit and the Managing Director determines that mediation is useless, then the Managing Director shall serve the Parties written notice that no further action will be taken on the Appeal by the UMCA, unless Appellant or Respondent requests a Hearing.

V. Hearing before Three Member Panel

Within two weeks of the receipt of the notice of no further action, either the Appellant or the Respondent may make a written Request for a Hearing (Request) before a three-person UMCA Appeals Panel (Panel). The request for a Hearing must be served upon the Managing Director and must be accompanied with a non-refundable Hearing Fee of \$500.00 (payable to the UMCA, Inc.) to cover the expenses of the Panel. The right to a Hearing shall be deemed waived unless a Party makes a timely Request and accompanies the request with the Hearing Fee.

Upon receipt of the Request, the Managing Director shall promptly serve the Appellant and the Respondent with the names of the Pool of potential Panel members. The Pool, from which the Panel shall be selected, consists of current members of the UMCA Board of Directors as well as the officials from the two most recent Races Across America (Pool).

Upon receipt of the Pool, the Appellant and the Respondent will each promptly choose one member from the Pool to serve on the Panel. These two Panel members will choose the third member of the Panel from the Pool. The Panel will select a Chair by majority vote.

The Chair will determine the time and place for the Hearing so as to have the Hearing occur at the earliest convenient date. The Chair may choose to conduct the Hearing by conference call or other electronic means. The Chair will communicate the information about the Hearing schedule to the Appellant and Respondent.

Prior to the Hearing, the Managing Director will provide the Panel with copies of the Pleadings, documents collected by the Investigator and the Investigator's Report. The Chair will notify the Appel-

lant and Respondent of the procedures to be followed at the Hearing. These procedures shall include the opportunity for Appellant and Respondent to be represented by counsel, to present oral and/or written evidence, to cross-examine witnesses and to present such factual or legal claims as desired.

Decisions about the merits of the matter and the form of remedies thereto shall be made by a majority vote of the members of the Panel. The Panel shall attempt to report its decision on the merits in the form of written findings of fact and conclusions (Final Decision) within two weeks of the conclusion of the Hearing.

The Panel shall serve the Final Decision to the Appellant and Respondent and to the Managing Director. No further appeal or procedure through UMCA will be recognized. The Final Decision shall be final and binding on all parties and shall not be subject to further challenge in any proceeding, including litigation or arbitration.