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Regis Becker
Michael Henry
US Center for SafeSport
1385 S. Colorado Boulevard
Suite A-706
Denver, CO 80222

Re: USGCOA

Dear Messrs. Becker and Henry:

I am writing on behalf of the United States Gymnastics Club Owners Association (USGCOA), a non-profit association formed in the second half of 2018. The Association is rapidly growing, with a current membership of more than 150 members, with approximately 4,000 affiliated professionals, distributed throughout eight geographic regions in the United States. USGCOA has is governed by Board of Directors comprised of the Association's executive officers and representatives from each of the eight regions.

USGCOA's mission is, at its most fundamental level, to promote the sport of gymnastics, providing education on sportsmanship, health, fitness and honest competition, and to furnish labor, services and financial assistance to individuals and organizations in the amateur gymnastics community. Essential to the furtherance of those goals is a close and healthy relationship between sanctioning and oversight organizations such as SafeSport, and the individual private clubs that form the backbone of the sport. My goal in introducing myself to you is to open a dialogue between USGCOA and SafeSport, hoping that we can find ways to identify and to promote common goals and objectives, to become a stabilizing force in the health of the amateur gymnastics industry.

The sport of gymnastics is unlike many other recognized Olympic sports, in that aspiring national-caliber athletes and pure recreational hobbyists typically receive their training through privately owned and operated gymnastics academies, and not through school programs or public parks and recreation programs. Also, the demands of the sport require such a high level of fitness that the competitive gymnast participates in gymnastics all year round, even though the competition season occupies only a fraction of the calendar year. Taking these realities together, competitive gymnastics requires a healthy and stable private industry of gymnastics clubs. Unless the private clubs are viable, the programs that serve as feeders to collegiate programs and for National and Olympic teams will not be able to sustain the sport.

SafeSport and USGCOA member clubs share the common goal of eradicating abuse and harassment of athletes, and developing policies and practices that minimize all forms of physical

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and emotional risks, and that provide safe procedures for reporting alleged abuses, as well as educational messaging to help to identify warning signs or questionable behaviors.

Hand in hand with programs aimed at preventing abuse, and procedures that encourage reporting of suspected abuse or misbehavior, the sport of gymnastics in particular needs industry stability and positive PR. Generally speaking, private gymnastics clubs are small, family-owned business entities. Owners commonly devote themselves to long hours and modest financial returns, because they share a love of the sport, and the opportunity to provide children and adolescents with a healthy, creative outlet that teaches health and fitness, as well as sportsmanship and clean competition, and builds confidence, self-esteem, time management skills, and comradery. No club owner has the resources to embark on a national campaign to rehabilitate the sport of gymnastics in the public eye.

To meet these noble goals, and simultaneously to feed the Junior Olympic, Olympic and National competitive gymnastics teams, and to contribute to university gymnastics programs, the private industry of gymnastics clubs must be healthy and vibrant. Private gymnastics clubs must be seen by parents of athletes as safe places for their children, and as a worthwhile investment, populated by owners and coaches who are dedicated to the sport. In the wake of the Dr. Larry Nassar scandal and the tumultuous series of events at USA Gymnastics since the scandal broke, the negative aspects of reactions to that scandal have materially and negatively impacted the private gymnastics club industry. Unless time and effort is devoted to a balanced set of rules and procedures applicable to the sport of gymnastics, the industry will continue to suffer.

Already, across the nation, gymnastics club owners are reporting declines in enrollment. These declines cannot be explained by factors such as recessionary economic conditions, or a sharp increase in popularity of a competing athletic activity. Parents determine whether or not a child athlete will participate in gymnastics. And if the national conversation on the sport is devoted to describing sexual and psychological abuse, without efforts aimed at celebrating the positive aspects of gymnastics as a recreational activity, parents will steer children in the direction of activities they perceive as “more safe”, without any real data to justify those decisions. Gymnastics clubs facing dwindling populations of participants will be forced to close. The “supply” of athletes climbing the ranks of competitive gymnastics, sufficient to join collegiate programs or the Olympics, will shrink in number and will decline in athletic talent.

Independent of news reports and negative PR impacting parents in deciding whether or not to commit themselves, their children and their financial resources to private gymnastics programs, private clubs are also beginning to experience a shortage of qualified, experienced coaches. As a sport, gymnastics emphasizes technique as much or more than speed, strength, balance and flexibility. Time, effort and determination will help athletes achieve their potential when it comes to strength and flexibility. But the ability to minimize injury while maximizing proficiency and mastery of ever more challenging maneuvers and skills can only be accomplished through the consistent and dedicated efforts of professional coaches. It has always been a challenge to gymnastics club owners to identify and hire experienced, talented

competitive gymnastics program coaches. The economics of almost every private gymnastics club is such that being a gymnastics coach is typically a full-time job, but not a path to great financial reward. The hours are long and irregular. The pay is not high, and the stress is pronounced. But in the wake of the Nassar scandal and the chaos at USA Gymnastics since then, talented private gymnastics coaches are repeatedly expressing consideration of moving to different fields of employment.

This last point is perhaps the most urgent one facing member clubs in USGCOA. SafeSport has implemented its Code, Practices and Procedures, including a mandate that each of the 47 sports covered by SafeSport's charter adopt and implement a set of policies devoted more specifically to the unique facts and circumstances of participation in each individual sport. USA Gymnastics has done this, with its most recent iteration of policies updated as recently as January, 2019. In the meantime, following the Dr. Nassar scandal, the USOC demanded resignations of the entire USA Gymnastics board, then initiated the process of revoking USA Gymnastics' status as the National Governing Body for the sport. USA Gymnastics then went through a series of embarrassing stumbles, hiring several CEOs who resigned under pressure and media scrutiny, or legal process. And in the face of approximately one hundred civil lawsuits, USA Gymnastics filed for Chapter 11 bankruptcy protection in December of 2018. The associated automatic stay of creditor actions has stalled, but has not eliminated the attacks on USA Gymnastics. While USA Gymnastics has insurance policies that will address to a limited extent its potential financial exposure to liability in civil lawsuits, many sponsors of USA Gymnastics' sanctioned events have turned their resources to less controversial places. In short, the USA Gymnastics business model has been severely damaged.

Understandably, USA Gymnastics seeks to demonstrate to the satisfaction of the USOC and SafeSport that its new leadership is serious about ushering in a new age of vigilance to even the hint of "abuse" of any kind, and that no procedure is too swift or draconian. The goal of eradicating abuse in the sport is, of course, virtuous. But the instruments being employed in the process are simply too crude for the task. When professionals who are guilty of no actual abuse whatsoever see their professional lives ruined, or their economic livelihoods placed in limbo for extended and unlimited periods of time, even well-intended leaders can do more harm than good.

As the USA Gymnastics policies currently provide (policies intended to be in service to SafeSport's Code), "Covered Individuals", which includes coaches, club owners, staff and board members, medical personnel, chaperones, and athletes themselves, must refrain from any "Prohibited Conduct", and must report any suspected "SafeSport Misconduct". Any club that receives such a report must, in turn, report notification to USA Gymnastics. If the alleged misconduct is sexual in nature, USA Gymnastics must refer the report to SafeSport. If the allegation is not of sexual misconduct, USA Gymnastics can investigate the report, or request the SafeSport do so. When USA Gymnastics or SafeSport decide to investigate an allegation, they have the authority to announce that an accused person is "under investigation" for violating the Code, the authority to suspend a Covered Individual from participating in sanctioned events pending the investigation's outcome, and even the authority to place an accused person on a

“permanently ineligible” list. Investigations are carried out in relative secrecy, with no actual or even recommended time frame.

USA Gymnastics manages on its website, a list of “permanently ineligible” and “suspended” members, each accompanied by a cryptic reference to applicable USA Gymnastics bylaws sections. Almost every suspension lists USA Gymnastics Bylaws section 9.3 as the basis for suspension. This section is a provision that allegations of *sexual* Misconduct shall be referred to SafeSport for investigation and recommendations and sanctions. Understandably, any person finding himself or herself on the published suspended list suffers loss during the period of suspension, whether it is wage or salary loss, disconnection from fellow athletes or coaches, and, perhaps most importantly, the risk that anyone reading the list assumes the worst. USA Gymnastics makes no effort to segregate those under suspension between those accused of sexual misconduct and those accused of some other form of misconduct. In fact, we know of currently suspended members whose names do not appear on the suspended list. Anyone listed as being suspended pending investigation, with a reference to Bylaws section 9.3 is being accused of suspected sexual misconduct, even where the underlying allegation may be some other form of alleged misconduct. Nothing in USA Gymnastics’ policies (or SafeSports’ policies for that matter) sets any time limits for how long a person can be under investigation and suspended. Worse, when an investigation concludes and a suspension is lifted, USA Gymnastics does nothing to publicize that the accusation of misconduct was shown to be false or was unsubstantiated. The temporarily suspended participant is left with a permanent “stain” of having been suspended, which can lead to a loss of future employment and earnings, a loss of prestige within the industry, and a loss of confidence and self-esteem. It should come as no surprise that many who are accused must, out of practical or economic necessity, or chooses to, sever their affiliation with the sport. In every case where an investigation leads to a falsely suspected person leaving the industry, the sport of gymnastics suffers a loss, but gains nothing.

Members of leadership within USGCOA have a number of specific anecdotal examples of a well-intended goal leading to unexpected and/or unwanted outcomes. They can envision an even greater number of hypothetical circumstances that, in time, will become additional real world anecdotal casualties. Financial injuries have been wrongly suffered, dedicated professionals have been forced to change careers, promising athletes have abandoned gymnastics, and honest small business owners have been put to unnecessary financial strains and emotional stresses. We are confident that, if SafeSport examines the real world implications of the Code and Policy now being thrust upon the private industry that is amateur gymnastics, it will want to engage in a healthy dialogue with representatives of the industry, and with leadership at USA Gymnastics, to refine the content of the policies and procedures, to inject greater balance and to protect participants within the industry from unintended consequences of over-reaction.

On an individual level, club owners, coaches, other club staff, and even gymnast parents have been placed in the improper and undesirable position of having their speech chilled, and restricting their behaviors, even when they are away from the sport, and not speaking or acting in

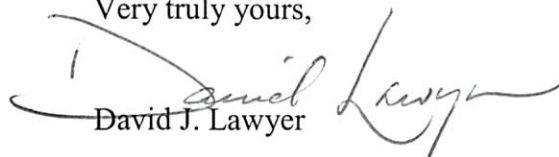
any gymnastics-related capacity. Uncorroborated reports of “misconduct” (a definition that is broad enough to include anything a reporting party characterizes as “verbal misconduct”, including teasing, or yelling at someone) are *required* to be reported to USA Gymnastics. Assuming USA Gymnastics elects to investigate such a report, the accused person can be suspended for the duration of the investigation, a process that has no time limit. If the reporting party requests anonymity, SafeSport and/or USA Gymnastics will honor that request where possible, leaving the accused person more or less helpless to defend himself or herself.

The target of any alleged misconduct has no procedural protections, and nothing resembling procedural due process in that person’s efforts to navigate through the prescribed disciplinary process. In the huge majority of cases, I imagine that an individual accused will not have the resources to navigate through SafeSport’s disciplinary process, which includes private arbitration, when an accused person desires to challenge an investigation outcome finding a Code violation and determining that discipline is warranted (or when a reporting person is dissatisfied with an investigation that does not substantiate the accusation). It would be interesting to know how many, if any, persons accused of “misconduct” have proceeded through a SafeSport arbitration.

Leaders of USGCOA are optimistic that, through dialogue, we can arrive at a more procedurally fair system than what is currently in place, without sacrificing our shared goal of eliminating sexual misconduct in gymnastics, and minimizing allegations of bullying, harassment and other forms of unacceptable and harmful conduct, even in the fiercely competitive and emotionally difficult confines of competitive gymnastics. My hope is that, with this introduction, you will agree to engage in a conversation with representative leaders of USGCOA, to hear their concerns and their real-world experiences, frustrations, and fears. Through that conversation, we hope you will agree that this is an important moment for the sport, to foster a set of rules and procedures that will accomplish everyone’s goals, but also to help restore the private gymnastics club industry to health and stability, while simultaneously promoting positive messaging that will keep this beautiful sport in existence.

I look forward to hearing from you.

Very truly yours,


David J. Lawyer

DJL:djl
cc: USGCOA