

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

_____)
In the Matter of)
) Docket No. C-4509
)
Professional Skaters Association,)
a corporation.)
)
_____)

COMPLAINT

The Federal Trade Commission (“Commission”), pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, having reason to believe that the Professional Skaters Association (“Respondent” or “PSA”), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint, stating its charges as follows:

I. RESPONDENT

1. Respondent Professional Skaters Association is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Minnesota, with its office and principal place of business located at 3006 Allegro Park SW, Rochester, MN 55902.
2. Respondent is a professional association for coaches of ice skating. Respondent’s members teach, train, and coach skaters from beginning skill levels to elite levels of competition. Respondent’s membership includes approximately 6400 coaches worldwide, as well as judges, skaters, families, patrons, and fans of the sport.

3. Many of Respondent's members provide ice skating teaching, training, and coaching services for a fee. Except to the extent that competition has been restrained as alleged herein, many of Respondent's members have been and are now in competition among themselves and with other coaches of ice skating.

II. JURISDICTION

4. Respondent conducts business for the pecuniary benefit of its members and is therefore a "corporation," as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.
5. Respondent confers pecuniary benefits on its members, including:
 - a. PSA membership is required by the U.S. Figure Skating Association ("USFSA") for coaches of skaters participating in: (i) USFSA qualifying competitions, and (ii) international ice skating competitions as part of Team USA. Because of this requirement, PSA membership is required in order to coach competitive skaters.
 - b. Coaches require access to ice skating rink facilities in order to engage in teaching. Some ice skating rink facilities require that coaches have PSA membership.
 - c. PSA offers insurance to its members, including general liability coverage and participant accident coverage.
 - d. PSA provides to members in good standing certain accreditations, ratings, and rankings that enable such members to charge fees for, and that affects the amount that can be charged for, coaching services.
6. The acts and practices of Respondent, including the acts and practices alleged herein, are in or affecting "commerce" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

III. PSA'S CONDUCT IN RESTRAINT OF TRADE

A. PSA RESTRICTIONS ON SOLICITATION

7. Respondent has acted as a combination of its members, and in agreement with at least some of those members, to restrain competition by restricting the ability of its members to solicit the customers of competing teachers and coaches of skating. Specifically, Respondent's Code of Ethics contains a provision that reads:

“No member shall in any case solicit pupils of another member, directly or indirectly, or through third parties.”

Further, Respondent’s Code of Ethics requires that, “Prior to acting as a coach, the member shall determine the nature and extent of any earlier teaching relationship with that skater and other members.”

8. Respondent requires its members to agree to abide by the Code of Ethics, educates members about the Code of Ethics, exhorts its members to follow the Code of Ethics, and enforces the Code of Ethics through a grievance process (described below).

B. PSA EXHORTS ITS MEMBERS TO FORGO SOLICITATION

9. Respondent has adopted and publicized a broad definition of solicitation that restricts many types of competition among members.
10. Respondent created an Ethics Committee to develop educational materials and programs in the area of ethics, and to educate its members about the types of conduct that it considers prohibited solicitation. Education occurs through required continuing education programs, publications, web postings, and the fielding of questions by Respondent’s staff, including Respondent’s Executive Director and General Counsel.
11. Respondent disseminates publicly and to its members a variety of documents that interpret and apply the Code of Ethics, including *Proper Procedures for Changing Coaches*, *Ethics Issues When Changing Coaches*, and *Tenets of Professionalism*.
12. Respondent defines the following statements as solicitation prohibited by the Code of Ethics:
 - “I am a much more qualified coach than _____ is.”
 - “Join our program. That other program isn’t very good.”
 - “We’ll give your child free lessons, ice time, equipment, etc.”
13. Respondent published in its magazine, *Professional Skater*, articles stating that handing to a student a business card that reads, “one free lesson” is prohibited solicitation.
14. Respondent created and disseminated supplemental guidelines to the Code of Ethics that discourage solicitation of ice skating teaching work in situations specific to team teaching (primary coaches, secondary coaches, specialty coaches), pairs and dance, synchronized skating, and social media. In these guidelines, Respondent gives the following instructions regarding the Code of Ethics no-solicitation provision:
 - “Targeting a skater already established with a coach and suggesting they change to you is SOLICITATION.”

- “Telling a skater already involved in a coaching relationship they will have better results with you is SOLICITATION.”
- “(Solicitation) A coach approaches a skater (or skater’s parent) who is already taking lessons and has a primary coach.”
- “(Solicitation) A team travels to an established training center for a seminar with a nationally/internationally recognized coach. After the seminar, the program director/coach/presenter suggests they stay for a few days of training to work with them or someone else.”
- “(Solicitation) Contacting, either directly or through another means, a skater or parent by sending recruiting material (resume, etc.) directly to a skater or parent is ‘targeting’ a skater.”
- “A coach or team manager should not approach (target) a skater who is a member of another team or taking private lessons.”
- “Sending recruiting material directly to a skater on another team is ‘targeting’ a skater.”

15. Respondent published *Ethics Guidelines for Social Media* instructing:

- “Social media solicitation remains solicitation and is unethical.”
- “[I]t is solicitous to recruit skaters using any form of social media.”
- “It is a violation of the PSA Code of Ethics for any coach, U.S. Figure Skating official, or U.S. Figure Skating official who is also a coach, to use any form of communication or engage in any acts which reasonably could give the appearance of the intent to solicit a business or personal relationship with any skater or a parent (or legal guardian) of a skater, who is not the current student of that coach or with a skater who is competing in a competition in which the U.S. Figure Skating official is officiating.”

C. PSA’S ENFORCEMENT REGIME

16. In furtherance of the combination alleged above, Respondent has established and administered a grievance and enforcement regime for receiving complaints about and resolving alleged violations of the PSA Code of Ethics, including the no-solicitation provision.
17. Respondent’s Bylaws provide that any complaint concerning a breach of the Code of Ethics shall be resolved by the PSA Committee on Professional Standards (“COPS”). The PSA COPS may discipline a member who it deems to have breached the Code of Ethics.

18. Respondent's members have filed grievances for alleged violation of the PSA Code of Ethics no-solicitation provision to restrain other PSA members from soliciting skaters who study with the complaining member.
19. Since 2006, PSA has sanctioned at least eight coaches for soliciting pupils of other members in violation of the Code of Ethics no-solicitation provision. PSA sanctions have included public admonition, private admonition, probation, suspension, and termination of membership.
20. Since 2006, Respondent has suspended at least one coach for violation of the Code of Ethics no-solicitation provision. The suspension was for six months. The suspension rendered the coach ineligible to attend or accompany skaters to USFSA qualifying competitions, or to work with skaters on Team USA. The suspension also resulted in the coach's losing insurance coverage. Respondent publicized notice of the suspension in Respondent's magazine, *Professional Skater*.
21. Since 2006, Respondent has publicly admonished at least one coach for violation of the Code of Ethics no-solicitation provision.
22. Since 2006, Respondent has privately admonished at least six additional coaches for violation of the Code of Ethics no-solicitation provision. COPS panel members have voted for private admonitions even in situations where they believed a coach's alleged solicitation was "mild," was via a third party, was probably inadvertent, was not intentional, was not premeditated, and was probably harmless.
23. Members of Respondent's COPS panels have acknowledged that even private sanctions may be sufficient to sensitize sanctioned coaches to the prohibition on solicitation, and to deter coaches from future violations of the no-solicitation provision of the Code of Ethics.
24. Member coaches being investigated for violation of the no-solicitation provision of the Code of Ethics have in some cases specifically pledged not to violate the no-solicitation provision in the future.
25. Respondent has sanctioned member coaches when skaters switched to or spent more time with a coach who was alleged to have engaged in the following practices, among others:
 - a. Offering skating workshops to students of other coaches;
 - b. Offering free admission or scholarships to workshops to students of other coaches;
 - c. Offering housing, costumes, or other support to students of other coaches.

26. Respondent has sanctioned member coaches for soliciting students of other members even over the objection of skating students and their parents who wanted to switch coaches and submitted affidavits or letters explaining their decisions to the PSA COPS panel. Respondent has sanctioned members for soliciting students of other members even when parents presented to the PSA COPS independent reasons for wanting to switch coaches, such as geographic convenience, carpooling arrangements, time preferences, preference for a different type of coach, judgment that a skater needed a coach with different expertise or approach, concerns about a coach's availability or personal comportment or cost, or some combination of these and other factors.
27. Sanctions for violations of the no-solicitation rule can harm the commercial prospects of PSA member coaches by damaging their reputation, jeopardizing their access to ice skating facilities, voiding their liability insurance, and terminating their eligibility to participate with their students in USFSA tests and competitions.

D. VIOLATION CHARGED

28. The purpose, effect, tendency, or capacity of the combination, agreement, acts and practices alleged in Paragraphs X through Y has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among ice skating teachers and coaches, and by depriving consumers of the benefits of free and open competition among teachers and coaches of ice skating.
29. The combination, agreement, acts and practices alleged in Paragraphs X through Y constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such combination, agreement, acts and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief requested herein.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this thirteenth day of February, 2015, issues its Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: