

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 nonprofit 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 Allegra Park SW, Rochester, MN 55902.
2. Respondent is a professional association of 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 competing 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 rinks 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 good standing certain accreditations 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. Specific 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 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 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 requiring 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 “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 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 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, R”

26. Respondent has sanctioned member coaches for soliciting students to 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 to other members even when parents presented to the PSA COPS independent reasons for wanting to switch coaches such as geographic convenience, pooling 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 the above 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, and practices alleged in Paragraphs X through Y has been and is to restrain competition unreasonably and to injure consumers by discouraging and limiting 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: