

Weil, Gotshal & Manges LLP

767 Fifth Avenue
New York, NY 10153-0119
+1 212 310 8000 tel
+1 212 310 8007 fax

Sarah Coyne
+1 (212) 310-8920
Sarah.Coyne@weil.com

February 16, 2018

Honorable Jerry Moran
Chairman
Subcommittee on Consumer Protection, Product Safety, Insurance and Data Security
521 Dirksen Senate Office Building
Washington DC 20510

Honorable Richard Blumenthal
Ranking Member
Subcommittee on Consumer Protection, Product Safety, Insurance and Data Security
706 Hart Senate Office Building Washington DC 20510

Re: *February 2, 2018 Letter Requesting Information from U.S. Ski & Snowboard*

Dear Senators Moran and Blumenthal:

We write on behalf of U.S. Ski & Snowboard (formerly known as the U.S. Ski and Snowboard Association) (“US SKI”) and in response to your letter, dated February 2, 2018, which seeks information relating to US SKI’s reporting protocols for allegations of sexual abuse and other criminal activities and the United States Olympic Committee’s (“USOC”) oversight of these matters (the “Letter”). Because the timing of the Letter coincided with the 2018 winter Olympic Games in South Korea, which required the attendance of US SKI’s senior staff, we sought an extension of time to respond but were denied such an accommodation. However, during a telephone call on February 13, 2018, your staff agreed that we could reserve the right to supplement US SKI’s responses to the Letter, as long as an initial response was provided by February 16, 2018. We are endeavoring to collect and review all of the information relevant to the inquiries contained in your Letter and will supplement our responses at a later date after we complete our review. We are, thus, submitting preliminary responses to your Letter to the best of our ability with the information available to us at this time.¹

As you know, the U.S. Center for SafeSport was launched with the aim to ensure our athletes’ safety and well-being. US SKI has embraced SafeSport’s mission and is committed to creating a safe, secure environment in which our athletes can train, compete and conduct their lives, free from the scourge of abuse, bullying and harassment. To that end, in March 2017, US SKI adopted a SafeSport Code which (1) defines what misconduct is, (2) describes training and education requirements, (3) explains how to report a SafeSport concern, (4) describes reporting obligations for all US SKI personnel, (5) lists the

¹ In responding to the Letter, US SKI does not waive the attorney-client and work product privileges and expressly reserves the right and ability to assert these privileges where appropriate in the future.

February 16, 2018

Page 2

appropriate SafeSport contact person for related questions and concerns, (6) describes SafeSport's investigative authority and procedures, and (7) explains how those who violate US SKI's SafeSport Code will be disciplined.

Particularly relevant to your inquiries, US SKI's SafeSport Code requires that *all* members of the organization who are in a position of authority over, or have frequent contact with, athletes be subject to a background check and complete appropriate training and education. Further, US SKI considers *all* of its members to be "mandatory reporters" of suspected violations of the SafeSport Code, regardless of the laws of local jurisdictions. Based on our review thus far, it is our understanding that US SKI makes no employment-based distinction on who must report. Regardless of status, those who suspect violations of US SKI's SafeSport Code are obligated to report the suspicious conduct to appropriate child protection authorities and SafeSport without delay.

As noted in your Letter, in September 2017, USOC engaged Baker Tilly to perform a review (the "Audit") of US SKI's compliance with USOC's Minimum Standards Policy for Athlete Safety Programs (the "Athlete Safety Standards"). The Audit detected three minor deficiencies relating to the description of the Athlete Safety Standards posted on US SKI's website. Specifically, the Audit found that US SKI's website did not: (1) list the full panoply of US SKI members subject to the authority of SafeSport, (2) enumerate the six types of misconduct—bullying, hazing, harassment (including sexual harassment), emotional misconduct, physical misconduct, and sexual misconduct (including child sexual abuse)—identified in the Athlete Safety Standards, and (3) make clear that a US SKI member in a position of authority over *any* athlete (not just a minor) must undergo a criminal background check and athlete protection education. US SKI remedied these website descriptions within 90 days of the Audit and the Athlete Safety Standards posted on US SKI's website are now in full compliance.² Further, in response to Dr. Nassar's conviction, US SKI has recently sent two broadcast emails to its Board of Directors, staff and national club leadership re-affirming the organization's commitment to the cause of athlete safety.

With respect to your inquiry concerning US SKI's use of non-disclosure ("NDA") and other binding agreements, which was clarified in correspondence between Max Cobb, Chair of the USOC's National Governing Bodies Council and members of your respective staffs, our preliminary review has not uncovered any instances where US SKI used NDAs or other binding agreements with athletes under its purview, or forced athletes to participate in binding arbitration of any kind. While, under the Ted Stevens Olympic and Amateur Sports Act (the "Sports Act"), US SKI can be required to participate in binding arbitration when athletes allege that US SKI has denied them an opportunity to participate in certain competitions, and/or when members allege that US SKI has violated certain provisions of the Sports Act or USOC Bylaws, *athletes* are not generally obligated to do so. Indeed, while athletes may demand that US SKI participate in binding arbitration, athletes themselves are always entitled to opt out of the process.

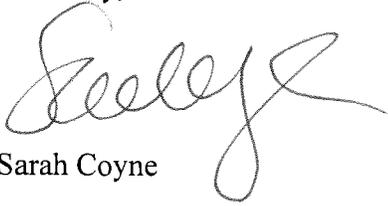
² US SKI's SafeSport policy is available here: <https://usskiandsnowboard.org/governance/safesport>.

February 16, 2018

Page 3

On behalf of US SKI, we greatly appreciate your concern and attention to these matters and look forward to working together to strengthen athlete protection.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Coyne". The signature is fluid and cursive, with a large initial "S" and a long, sweeping tail.

Sarah Coyne