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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

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

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

DECISION AND ORDER

The Federal Trade Commission, ("Commission"), having initiated an investigation of certain acts and practices of the Professional Skaters Association, Inc. ("Respondent" or "PSA") and Respondent having been furnished thereafter with a copy of a draft of complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment received from an interested person pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure described in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order ("Order"):

1. Respondent Professional Skaters Association, Inc., 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, Minnesota 55902.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS HEREBY ORDERED that, as used in this Order, the following definitions shall apply:

A. "Respondent" or "PSA" means Professional Skaters Association, Inc., its directors, boards, officers, employees, agents, representatives, councils, committees, foundations, divisions, successors, and assigns.

B. "Antitrust Compliance Officer" means a person appointed under Paragraph IV.A. of this Order.

C. "Antitrust Counsel" means a lawyer admitted to practice law in Federal court or in the highest court of any State or Territory of the United States.

D. "Antitrust Laws" means the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, the Sherman Act, 15 U.S.C. § 1 *et seq.*, and the Clayton Act, 15 U.S.C. § 12 *et. seq.*

E. "Code of Ethics" means a statement setting forth the principles, values, standards, or rules of behavior that guide the conduct of an organization and its members.

F. "FTC Settlement Statement" means the statement attached to this Order as Appendix A.

G. "Member" means a member of PSA, including any full, associate, family, patron, basic, and intern member.

H. "Organization Documents" means any documents relating to the governance, management, or direction of the relevant organization, including, but not limited to, bylaws, rules, regulations, Codes of Ethics, policy statements, interpretations, commentaries, guidelines, or educational materials.

I. "Performing" means skating or preparing to skate at an arena in a test, competition, or exhibition, and includes meetings with coaches, locker room time, practice skating, and warmup skating.

J. "Regulating" means (1) adopting, maintaining, recommending, or encouraging that Members follow any rule, regulation, interpretation, ethical ruling, policy, commentary, or guideline; (2) taking or threatening to take formal or informal disciplinary action; or (3) conducting formal or informal investigations or inquiries.

K. "Skating Organizations" means (1) Ice Skating Institute, 6000 Custer Rd., Bldg. 9, Plano, Texas 75023 and (2) U. S. Figure Skating Association, 20 First Street, Colorado Springs, Colorado 80906.

II.

IT IS FURTHER ORDERED that Respondent, directly or indirectly, or through any corporate or other device, in or in connection with Respondent's activities as a professional association in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from:

A. Regulating, restricting, restraining, impeding, declaring unethical or unprofessional, interfering with or advising against:

1. Solicitation of coaching work by any Member, through any legal means, directly or indirectly, including but not limited to adoption or maintenance of any Code of Ethics or practice that restricts any coach from:

(a) Making statements about the comparative desirability of offered coaching services or claiming or implying unusual, unique, or one-of-a-kind coaching abilities;

(b) Engaging in any solicitation of business from actual or prospective students or the parents of such students or offering coaching services to a student or parent of a student receiving services from another coach;

(c) Providing coaching services without first determining the nature and extent of any earlier teaching relationship with the skater and other coaches or contacting the current coach; and

(d) Contacting a student or parent of a student receiving services from another coach to offer coaching services.

Provided, however, that nothing in this Paragraph II.A. shall prohibit Respondent from adopting and enforcing reasonable principles, rules, guidelines, or policies governing the conduct of its Members with respect to (i) representations that Respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, (ii) prevention of sexual and physical abuse of children, or (iii) in-person solicitation of a skater actively engaged in a lesson or Performing.

2. Price competition by any Member, including, but not limited to, restraining any person from offering free lessons when soliciting business.

B. Adopting or maintaining any Code of Ethics or practice that restricts or attempts to restrict any non-Member from talking to, convincing, or requiring students or parents of such students to switch from one coach to another.

C. With respect to any other organization:

1. Encouraging or assisting such organization to adopt or maintain any Code of Ethics or practice that would violate Paragraph II.A. or B. of this Order if adopted by Respondent, and

2. Enforcing or investigating on behalf of such organization a violation of a Code of Ethics that would violate Paragraph II.A. or B. of this Order if enforced or investigated by Respondent on its own behalf.

III.

IT IS FURTHER ORDERED that:

A. No later than thirty (30) days from the date this Order is issued, Respondent shall:

1. Post and maintain for five (5) years on the Ethics page of PSA's website the following items:

(a) An announcement that states "PSA agreed to change its Code of Ethics and will not adopt, encourage its members to follow, or enforce any Code of Ethics provision relating to solicitation of coaching work that does not comply with the FTC Consent Order,"

(b) The FTC Settlement Statement; and

(c) A link to the Federal Trade Commission's website that contains the press release issued by the Commission in this matter; and

2. Distribute electronically or by other means a copy of the FTC Settlement Statement to its board of governors, officers, employees, and Members.

3. Notify the Skating Organizations that Respondent agreed to change its Code of Ethics and will not enforce or investigate on behalf of the Skating Organizations a violation of any Code of Ethics or practice that does not comply with the FTC Consent Order, and provide a copy of this Order to each organization.

B. No later than sixty (60) days from the date this Order is issued Respondent shall:

1. Remove from PSA's Organization Documents and website any statement that is inconsistent with Paragraph II. of this Order, and

2. Publish on PSA's website any revisions of PSA's Organization Documents.

C. Respondent shall publish:

1. In the font that is customarily used for feature articles:

(a) Any revisions of PSA's Organization Documents, the press release issued by the Commission in this matter, and the FTC Settlement Statement in the next available editions of the "Professional Skater Magazine" and "In The Loop" publications; and

(b) The FTC Settlement Statement, on or as close as possible to the first and second anniversary dates of the first publication of the FTC Settlement Statement, in the "Professional Skater Magazine" and "In The Loop" publications, or any successor publication.

2. For a period of three (3) years, a statement in all ethics related continuing education courses and materials for Members and all education materials directed toward non-Members (including parents of students) that restrictions on solicitation no longer apply.

D. For a period of five (5) years after this Order is issued, distribute electronically or by other means, a copy of the FTC Settlement Statement to each:

1. New Member no later than thirty (30) days after the date of commencement of the membership; and

2. Member who receives a membership renewal notice, at the time the Member receives such notice.

E. Respondent shall maintain and make available to Commission staff for inspection and copying upon reasonable notice records adequate to describe in detail any:

1. Action against any Member taken in connection with the activities covered by Paragraph II. of this Order, including but not limited to enforcement, advisory opinions, advice or interpretations rendered; and

2. Complaint received from any person relating to Respondent's compliance with this Order.

IV.

IT IS FURTHER ORDERED that Respondent shall design, maintain, and operate an antitrust compliance program to assure compliance with this Order and the Antitrust Laws:

A. No later than thirty (30) days from the date this Order is issued, Respondent shall appoint and retain an Antitrust Compliance Officer for the duration of this Order to supervise Respondent's antitrust compliance program.

B. For a period of one year from the date this Order is issued, the Antitrust Compliance Officer shall be Loren Hansen, after which a new Antitrust Compliance Officer may be appointed who shall be Antitrust Counsel, a member of the board of governors, or employee of Respondent.

C. For a period of five (5) years from the date this Order is issued, Respondent shall:

1. Provide in-person annual training to its board of governors, officers, and employees concerning Respondent's obligations under this Order and an overview of the Antitrust Laws as they apply to Respondent's activities, behavior, and conduct; and

2. Conduct a presentation at (i) each of its annual conferences and (ii) at least one meeting of the board of governors every twelve (12) months, that summarizes Respondent's obligations under this Order and provides context-appropriate guidance on compliance with the Antitrust Laws.

D. No later than sixty (60) days after the date this Order is issued, Respondent shall implement policies and procedures to:

1. Enable persons (including, but not limited to, its board of governors, officers, employees, Members, and agents) to ask questions about, and report violations of, this Order and the Antitrust Laws, confidentially and without fear of retaliation of any kind; and

2. Discipline its board of governors, officers, employees, Members, and agents for failure to comply fully with this Order.

V.

IT IS FURTHER ORDERED that Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order:

A. No later than (i) ninety (90) days after the date this Order is issued, (ii) one hundred eighty (180) days after the date this Order is issued; and

B. No later than one (1) year after the date this Order is issued and annually thereafter for four (4) years on the anniversary of the date on which this Order is issued, and at such other times as the Commission staff may request.

VI.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any proposed:

A. Dissolution of Respondent;

B. Acquisition, merger, or consolidation of Respondent; or

C. Any other change in Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

VII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondent, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

A. Access, during business office hours of the Respondent and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondent related to compliance with this Order, which copying services shall be provided by the Respondent at its expense; and

B. To interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate on February 13, 2035.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: February 13, 2015

APPENDIX A

[Letterhead of PSA]

Dear Member:

As you may know, the Federal Trade Commission ("FTC") conducted an investigation concerning the provision in PSA's Code of Ethics that stated:

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

The FTC alleges that this provision in the Code of Ethics violates the Federal Trade Commission Act because it unnecessarily restricts members of PSA from competing for pupils, thereby depriving pupils of the benefits of competition among skating coaches. The FTC also alleges that PSA guidelines state it is unethical for members to give free lessons is an illegal restriction on price competition.

To end the investigation expeditiously and to avoid disruption to its core functions, PSA voluntarily agreed, without admitting any violation of the law, to the entry of a Consent Agreement and a Decision and Order by the Federal Trade Commission. As a result, PSA will eliminate the above provision from its Code of Ethics and other organizational documents and implement an antitrust compliance program.

In general, the FTC has prohibited PSA from maintaining bylaws, code of ethics, operational policies, or membership requirements that restrict members from soliciting students and engaging in price competition. The Decision and Order also prohibits PSA from (1) encouraging other organizations to adopt policies or practices that would violate the Decision and Order if PSA adopted such policies and (2) enforcing or investigating violations of the code of ethics of other organizations that would violate the Decision and Order if enforced or investigated by PSA on its behalf.

PSA is also prohibited from adopting policies or practices that restrict or attempts to restrict non-members from talking to, convincing, or requiring students or parents of such students to switch from one coach to another.

The Decision and Order does not prohibit PSA from adopting and enforcing Codes of Ethics or similar documents that govern the conduct of members with respect to (1) representations that PSA reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, (2) prevention of sexual and physical abuse of children, or (3) in-person solicitation of a skater actively engaged in a lesson or Performing.

A copy of the Decision and Order is enclosed. It is also available on the Federal Trade Commission website at www.FTC.gov, and through the PSA web site.