

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.)
DOUGLAS J. PETERSON,)
ATTORNEY GENERAL,)
)
Plaintiff,)
)
v.)
)
UNITED STATES AMATEUR)
CONFEDERATION OF ROLLER)
SKATING, a Nebraska nonprofit)
corporation.)
)
Defendant.)

CASE NO: CI 18 850

LANCASTER COUNTY
2018 MAR 12 AM 9 33
CLERK OF THE
DISTRICT COURT

FINAL CONSENT JUDGMENT

NOW, this matter is before the Court on the Parties' Agreement to Entry of Final Consent Judgment ("Agreement"). The Parties, as defined in the Agreement, include Plaintiff, the State of Nebraska, ex. rel Douglas J. Peterson, Attorney General, and Defendant United States Amateur Confederation of Roller Skating. The Plaintiff is represented by Assistant Attorney General Daniel J. Russell. Defendant is represented by Jerry L. Pigsley.

The Court has reviewed the Agreement and concludes good cause has been shown to enter this Final Consent Judgment approving the Agreement.

Pursuant to the terms of the Agreement, and the Nebraska Nonprofit Corporation Act, Neb. Rev. Stat. § 21-1901 *et seq.*, Defendant shall be enjoined, restrained and bound from directly or indirectly engaging in the prohibited practices set forth in the Agreement, and, further,



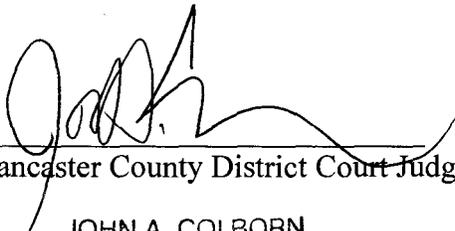
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required to directly or indirectly satisfy the affirmative requirements set forth in said Agreement.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Agreement, executed as of March 9, 2018, by and between the State of Nebraska, ex rel. Douglas J. Peterson, Attorney General, and the United States Amateur Confederation of Roller Skating, is hereby approved.

DATED this 9 day of March 2018.

BY THE COURT:


Lancaster County District Court Judge
JOHN A. COLBORN

Prepared and submitted by:

Daniel Russell, #25302
Assistant Attorney General
Office of the Nebraska Attorney General
2115 State Capitol
Lincoln, NE 68509-8920
Tel: (402) 471-2683
Fax: (402) 471-2957
daniel.russell@nebraska.gov
Counsel for Plaintiff

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.
DOUGLAS J. PETERSON,
ATTORNEY GENERAL,

Plaintiff,

v.

UNITED STATES AMATEUR
CONFEDERATION OF ROLLER
SKATING,

Defendant.

CASE NO: CI 18- 850

AGREEMENT TO ENTRY OF FINAL CONSENT JUDGMENT

Plaintiff, the State of Nebraska, by and through Douglas J. Peterson, the Attorney General, and through the undersigned Assistant Attorney General, has filed a Complaint against the Defendant United States Amateur Confederation of Roller Skating, d/b/a USA Roller Skating and USA Roller Sports, requesting relief in this matter pursuant to *parens patriae* authority, common law authority, and authority under the Nebraska Nonprofit Corporation Act, Neb. Rev. Stat. § 21-1901 et seq. (hereinafter "Nonprofit Act"), alleging Defendant committed violations of the common law and the Nonprofit Act.

WHEREAS, Plaintiff and Defendant now wish to amicably resolve the issues raised in the Complaint, and NOW THEREFORE, upon the consent of the Parties hereto, IT IS HEREBY AGREED AS FOLLOWS:

Plaintiff, by its counsel, and Defendant, by its counsel, have consented to entry by the Court of a final consent judgment approving this Agreement to Entry of Final Consent Judgment (hereinafter "Agreement") without trial or adjudication of any issue of fact or law, and without admission of any wrongdoing or admission of any violations of law, including violations of the common law or the Nonprofit Act.

PARTIES

1. Douglas J. Peterson is the duly elected, qualified, and acting Attorney General of the State of Nebraska. The Attorney General, in his role as representative of the public's interest, has a duty to protect the public, which includes, inter alia, the duty of oversight of charitable entities and assets. This duty is pursuant to his *parens patriae* authority, common law authority, and his authority under Nebraska state statutes, including the Nonprofit Act.

2. Defendant United States Amateur Confederation of Roller Skating, d/b/a USA Roller Skating and USA Roller Sports (hereinafter "Defendant") is a domestic Nebraska nonprofit public benefit corporation registered with the Nebraska Secretary of State, currently holding active status. The Defendant's principal office address is 4730 South Street, Lincoln, NE 68506. The Defendant has operated and continues to operate in and from the State of Nebraska. For the purposes of this Agreement, Defendant also means anyone acting on behalf of, or in concert or participation with, the Defendant, directly or indirectly, including principals, directors, officers, agents, representatives, volunteers, employees, coaches, independent contractors, affiliates, successors, transferees, assignees, and all other persons or corporate devices, partnerships, associations, or other business entities.

3. Plaintiff and Defendant shall be collectively referred to as "the Parties" throughout this Agreement.

DEFINITIONS

4. "And" and "or" are terms of inclusion and not exclusion.
5. "Board of Directors" shall mean Defendant's Board of Directors.
6. "Director" shall mean an individual who is a director on Defendant's Board of Directors.
7. "Officer" shall mean an individual who is an officer of Defendant.
8. "Committee" shall mean any subset of Defendant's Board of Directors or a group formed by Defendant's Board of Directors that reports to Defendant's Board of Directors.
9. "Executive Committee" effective January 1, 2018, shall mean the President who shall serve as Chairman, Board of Directors Chairman, and three Board members, one of whom is an athlete representative, elected annually by the Board of Directors.
10. "Executive Director and/or Director of Operations" shall mean the chief executive officer or managing director of Defendant.
11. "Members" shall mean members of Defendant.
12. "Effective Date" shall mean the date the Court approves this Agreement pursuant to a final consent judgment.
13. Unless otherwise defined, terms in this Agreement shall be construed consistent with the Nonprofit Act.

COMPLIANCE PROVISIONS

14. Within six (6) months of the Effective Date, Defendant shall develop and implement policies and procedures consistent with paragraphs 15 – 41 of this Agreement. Once implemented, or six (6) months after the Effective Date, whichever comes first, the Defendant shall provide the Plaintiff with a copy of all policies and procedures implemented pursuant to this Agreement.

15. Defendant shall establish a confidential hotline or other confidential reporting mechanism for Members and others to report suspicions of malfeasance or fraud within or regarding Defendant or anyone acting on behalf of Defendant. Defendant shall implement a program to timely investigate and respond to any reports received through the hotline or other reporting mechanism. For a period of three (3) years from the Effective Date, Defendant shall promptly provide Plaintiff with copies of any reports received, copies of any correspondence and documentation related to the reports, and an explanation of how the Defendant responded to each report. The hotline or other reporting mechanism shall direct reports to each Director.

16. Defendant shall perform civil and criminal background checks, as well obtain credit checks, on all prospective hires, Directors, and Officers. The results of these background checks shall be provided to the Executive Committee and Executive Director and/or Director of Operations and shall be taken into consideration when making decisions. All results of background checks are considered confidential and will be stored in Defendant's confidential files.

17. Defendant shall define "documentation" with regard to support for a request for payment or reimbursement. Documentation of expenses must be from a neutral third party and cannot be self-generated by the individual requesting payment or reimbursement.

18. Defendant shall require all incoming requests for payment or reimbursement to be viewed and recorded by one of Defendant's employees, other than the Executive Director and/or Director of Operations, prior to being given to the Executive Director and/or Director of Operations.

19. Defendant shall require documentation of a request for payment or reimbursement to be reviewed by the Executive Director and/or Director of Operations and President and, at a minimum, one other employee of Defendant before payment or reimbursement is made.

20. Defendant shall require requests for payment or reimbursement with supporting documentation to be forwarded, on a monthly basis, to the Board of Directors or the Finance Committee, for their review. Excluded from the list of requests for payment or reimbursement are the monthly reoccurring expenses, such as for heat, insurance, water, etc., and included are payments to companies that are rarely used, such as vendors, member reimbursements, etc.

21. Defendant shall require that all payments or reimbursements by check contain a sufficient description of the purpose of the check on the memo line or other area where a description can be included, as well as memo documentation in the electronic reporting system.

22. Defendant shall eliminate all incentive-based compensation.

23. All compensation paid by Defendant shall be fair and reasonable.

24. All compensation paid by Defendant shall be approved by the Board of Directors.

25. All contracts exceeding \$5,000 entered into by Defendant shall be approved by the Board of Directors, and contracts not exceeding \$5,000 may be approved by the Executive Committee.

26. Defendant shall require the submission of requests for approval of travel expenses prior to travel. These requests shall sufficiently explain the reasons the expense is appropriate and shall include at a minimum:

- a. Requestor's name and title;
- b. Traveler's name and title;
- c. Destination of travel;
- d. Reason for travel;
- e. Dates of travel;
- f. Amount of money requested with a breakdown justifying the amount; and

g. Date submitted.

Each request shall be forwarded to the Executive Director and/or Director of Operations, and the Board of Directors or the Finance Committee, for approval before any disbursement is made. Exceptions to this policy require approval of the Finance Committee Chair.

27. Defendant shall require coaches, team managers, or any other person who travels on behalf of the Defendant, such as with the World Team or for any other reason, to certify when and in what amounts money was received and spent on traveling expenses. These certifications shall be forwarded, on a monthly basis, to the Board of Directors or the Finance Committee, for their review.

28. Defendant shall provide annually for a professional, neutral, external third-party financial audit of the Defendant. Defendant shall provide a copy of the complete financial audit to each Director, to the Members and the public via Defendant's website, and to the Plaintiff, within thirty (30) days of completion, for a period of three (3) years from the Effective Date.

29. Defendant shall have fair and reasonable policies and procedures for employee vacation time, vacation time accrual, and the redemption of vacation time when an employee leaves or is terminated from the Defendant.

30. Each Director shall attend a minimum four (4) hours of educational training sessions for each calendar years 2018 and 2019, of which the purpose and/or curriculum is or substantially concerns nonprofit corporation law, governance, ethics, oversight, or management.

31. Each Board of Directors meeting and each Executive Committee and Finance Committee meeting shall include a portion of the meeting in which the Executive Director and/or Director of Operations are not present.

32. Each Director shall sign (including the option of an electronically-transmitted signature) and approve all minutes of each Board of Directors meeting and each Committee meeting, indicating with such signature that the Director has read and understood the minutes, at the next Board of Directors meeting.

33. Each Director shall sign (including the option of an electronically-transmitted signature) and approve all reports from the Board of Directors and from any Committee, indicating with such signature that the Director has read and understood the reports, at the next Board of Directors meeting.

34. Defendant shall not allow Richard Hawkins to participate in any role, whether as an employee, agent, volunteer, or otherwise, with the Defendant.

35. Defendant shall cooperate with any law enforcement investigation regarding fraudulent activity or misappropriation of charitable funds.

36. Defendant shall promptly provide the President, Finance Committee Chair, and Treasurer with a copy of Defendant's monthly credit card, loan, bank, and financial account statement for their review.

37. Defendant shall promptly provide on a quarterly basis to the Plaintiff, for a period of three (3) years from the Effective Date, a copy of Defendant's monthly credit card, loan, bank, and financial account statements.

38. Defendant's financial information is made available to each Director.

39. Each Director shall annually read and certify that he/she has read the Nonprofit Act and shall provide the Plaintiff with copies of such certification for a period of three (3) years from the Effective Date.

40. Defendant shall electronically provide, or, as requested, a physical copy, the Defendant's Form 990 to the Board of Directors to be reviewed and approved prior to filing with the Internal Revenue Service. Each Director shall certify having read and reviewed the Form 990. Defendant shall provide the Plaintiff with copies of each Director's certification for a period of three (3) years from the Effective Date.

41. Defendant shall make available for review its Form 990, as filed with the Internal Revenue Service, to each Director, to the Members and the public via Defendant's website, and to the Plaintiff, within thirty (30) days of filing.

ENFORCEMENT

42. The Plaintiff and the Defendant enter into this Agreement in furtherance of the public interest in charity. A violation of this Agreement by the Defendant is prima facie evidence that the Defendant has exceeded or abused the authority conferred upon it by law through the Nonprofit Act or otherwise, and also prima facie evidence of a violation of common law in regard to charitable assets and entities. Furthermore, any Director who assists or is compliant in Defendant's violation of this Agreement shall be considered in violation of Neb. Rev. Stat. § 21-1986(a), and violation of this Agreement shall be prima facie evidence of such. Furthermore, any Officer who assists or is compliant in Defendant's violation of this Agreement, shall be considered in violation of Neb. Rev. Stat. § 21-1992(a), and violation of this Agreement shall be prima facie evidence of such.

GENERAL PROVISIONS

43. This Agreement is made and entered into without trial or finding of fact or conclusions of law by a court. This Agreement does not constitute evidence against or an admission by Defendant of any issues of fact or any violations of law in the past or that Defendant has engaged

in any inappropriate activities or other wrongdoing and shall not be used in a manner inconsistent with these terms.

44. Nothing in this Agreement shall be construed so as to limit or bar any other person or entity from pursuing any and all available legal remedies against Defendant; nor is it the intent of the Parties hereto that this Agreement shall create or support a cause of action against Defendant by non-parties to this Agreement.

45. The Parties agree that the headings in this Agreement are used for the purpose of convenience only and are not intended to affect the interpretation or construction of this Agreement.

46. Nothing in this Agreement shall be construed as relieving Defendant of the obligation to comply with any and all federal, state and local laws, regulations or rules, nor shall any of the provisions of this Agreement be deemed a waiver or permission to engage in any act or practice prohibited by law, regulation or rule. This Agreement is subject to all applicable federal, state and local laws, regulations and rules.

47. Defendant understands that this Agreement shall not be construed as an approval of or sanction by the Plaintiff of Defendant's practices, nor shall Defendant represent the Agreement as such approval. The Parties further understand and agree that any failure by the Plaintiff to take any action in response to any information submitted pursuant to this Agreement shall not be construed to be an approval of or sanction of any representations, acts, or practices of Defendant, nor shall any inaction by the Plaintiff be considered a waiver by the Plaintiff of any rights under this Agreement or the law.

48. If any portion, provision, or part of this Agreement is held to be invalid, unenforceable or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.

49. In the event any more restrictive law, regulation or order is enacted, adopted or issued by the federal government, the State of Nebraska or any of its agencies, any relevant local government or a court of competent jurisdiction with respect to any issue specifically covered by this Agreement, the requirements of such law, regulation or order, after written notice by Defendant to the Plaintiff or Plaintiff to Defendant, shall replace any provision contained herein so that compliance with such law, regulation or order shall be deemed compliance with this Agreement.

50. Defendants shall generate, retain, and make readily available to Plaintiff for inspection, upon reasonable notice and without the necessity of a subpoena, civil investigative demand, or other legal process, all material records and documents reasonably necessary to document compliance with this Agreement.

51. The Parties acknowledge and represent that: (a) each Party has read this Agreement in its entirety and fully understands all of its terms and conditions and the ramifications and consequences thereof; (b) each Party unconditionally consents to the terms of this Agreement; (c) each Party has either consulted with or had ample opportunity to consult with legal counsel of its choosing prior to executing this Agreement; (d) each Party has freely and voluntarily signed this Agreement; and (e) the consideration received by each Party as described in this Agreement is adequate.

52. The Parties acknowledge and agree that this Agreement contains the entire understanding of the Parties and supersedes and forever terminates all prior and contemporaneous

representations, promises, agreements, understandings, and negotiations, whether oral or written, with respect to its subject matter. The Parties further agree that this Agreement may only be amended, modified, or supplemented by a duly executed writing signed by each Party to this Agreement.

53. The Parties agree that they may execute this Agreement in any number of counterparts, each of which shall be deemed an original hereof, but which together shall constitute one and the same instrument and agreement, and that facsimile or electronically-transmitted signatures may be attached to this Agreement and shall be binding on such party as an original signature.

54. Any notices, statements, or other written documents required by this Agreement shall be provided by first class mail and emailed to the intended recipient at the addresses set forth below, unless a different address is specified in writing by the party changing such address:

a. For the Plaintiff:

Daniel Russell
Assistant Attorney General
Consumer Protection Division
Nebraska Attorney General's Office
2115 State Capitol
Lincoln, NE 68509-8920
daniel.russell@nebraska.gov

b. For the Defendant:

Jerry Pigsley
Woods & Aitken LLP
301 S 13th Street, #500
Lincoln, NE 68508
jpigsley@woodsaitken.com

WHEREFORE, each undersigned representative of the Plaintiff and Defendant certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and

legally bind such Party to its terms. The following signatures are affixed hereto as of the dates written below in agreement hereof.

JOINTLY APPROVED FOR ENTRY AND SUBMITTED BY:

FOR PLAINTIFF:

THE STATE OF NEBRASKA, ex rel.
DOUGLAS J. PETERSON, Attorney General

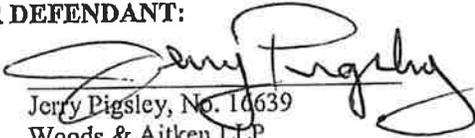
By: Douglas J. Peterson, Attorney General, No. 18146

By: _____
Daniel Russell
Assistant Attorney General
Consumer Protection Division
Nebraska Attorney General's Office
2115 State Capitol
Lincoln, NE 68509-8920
daniel.russell@nebraska.gov

Date

Counsel for the State of Nebraska

FOR DEFENDANT:

By: 
Jerry Pigsley, No. 10639
Woods & Aitken LLP
301 S 13th Street, #500
Lincoln, NE 68508
Phone: (402) 437-8514
Fax: (402) 437-8558
j pigsley@woodsaitken.com

3/2/18
Date

Counsel for the Defendant

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By: <u>David J. Adams II</u> Director <i>DAVID J ADAMS II</i>	<u>JAN. 26, 2018</u> Date
By: _____ Director	_____ Date

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

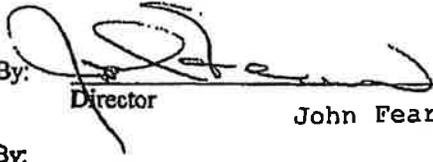
By: <u>Annelle Anderson</u> Director ANNELLE ANDERSON	<u>1-24-2018</u> Date
By: _____ Director	_____ Date

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By:  Director DANIEL BROWN	<u>1-30-18</u> Date
By: _____ Director	_____ Date



UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By:	<u></u>	<u>1-26-18</u>
	Director John Fearnow	Date
By:	_____	_____
	Director	Date
By:	_____	_____
	Director	Date
By:	_____	_____
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	Director	Date
By:	_____	_____
	Director	Date

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By: <u>Misty Greer</u>	<u>1-25-18</u>
Director Misty Greer	Date
By: _____	_____
Director	Date
By: _____	_____
Director	Date
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Director	Date
By: _____	_____
Director	Date

By: Trace Hansen
Director Trace Hansen

1/29/2018
Date

By: _____
Director

Date

By: _____
Director

Date



UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By:	<u>Renee Hildebrand</u>	<u>1/26/2018</u>
	Director Renee Hildebrand	Date
By:	_____	_____
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By:	_____	_____
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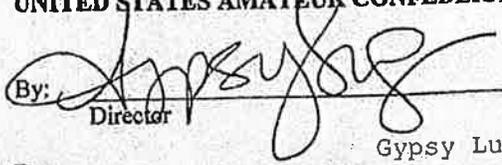
UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By: <u>Kylee Hughes</u> Director Kylee Hughes	<u>1/24/18</u> Date
By: _____ Director	_____ Date

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By:	<u></u>	<u>2/28/18</u>
	Director Erin Jackson	Date
By:	_____	_____
	Director	Date
By:	_____	_____
	Director	Date
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By:	_____	_____
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	Director	Date
By:	_____	_____
	Director	Date

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By: 
Director Gypsy Lucas

1-25-18
Date

By: _____ Date _____
Director

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By: Heidi Permatteo Director Heidi Permatteo Date 1/24/18

By: _____ Director _____ Date _____

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By:  Fernando Reguelro 1/24/2018
Director _____ Date _____

By: _____ Date _____
Director _____

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING:

By: <u></u>	<u>1/29/18</u>
Director <u>AUSTIN ROUX</u>	Date
By: _____	_____
Director	Date
By: _____	_____
Director	Date
By: _____	_____
Director	Date
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Director	Date
By: _____	_____
Director	Date

UNITED STATES AMATEUR CONFEDERATION OF ROLLER SKATING

By:  Director Jon Roux	1-27-18 Date
By: _____ Director	_____ Date

By: *Tommy Hughes* _____ Date 1/23/18
Director Tommie Hughes

By: _____ Date _____
Director

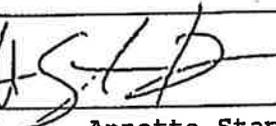
By: _____ Date _____
Director

By: _____
Director

Date

By: _____
Director

Date

By: _____
Director  Annette Stapleton

2-02-18

Date