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# United States Senate

COMMITTEE ON FINANCE

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April 23, 2019

## VIA ELECTRONIC TRANSMISSION

Sarah Hirshland  
Chief Executive Officer  
United States Olympic Committee  
One Olympic Plaza  
Colorado Springs, Colorado 80909

Dear Ms. Hirshland:

According to news reports, an ex-official at USA Gymnastics, Tom Forster, stated that the U.S. Olympic Committee's (USOC) bid to decertify USA Gymnastics was a "strategic move" designed to "appease critics and congress for the perceived lack of progress [USA Gymnastics] ha[s] made as an organization to solve [its] public image problems."<sup>1</sup> If true, this raises serious questions as to the motives behind the USOC's recent attempt at decertification.

Congress granted the USOC the power to certify and decertify all National Governing Bodies (NGB) for each Olympic sport, such as USA Gymnastics.<sup>2</sup> Under Section 8 of its bylaws, the USOC describes the process by which USOC may revoke the status of any NGB for non-compliance or other deficiencies.<sup>3</sup> The revocation process calls for a hearing panel to be established, a hearing to be held, a report issued, and a vote by the USOC board on a final determination.<sup>4</sup>

On November 5, 2018, you issued a statement informing the public that you had "initiate[d] a Section 8 proceeding against USA Gymnastics, seeking to revoke USAG's recognition."<sup>5</sup> In a subsequent open letter to the gymnastics community you wrote, "each of you has overcome adversity in different ways, some facing unimaginably terrible situations, everyone now faces the difficult

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<sup>1</sup> Scott M. Reid, *USA Gymnastics official calls USOC move to decertify "strategic"*, The Orange County Register, Nov. 13, 2018, available at <https://www.ocregister.com/2018/11/13/usa-gymnastics-official-calls-usoc-move-to-decertify-strategic/>.

<sup>2</sup> 36 U.S.C. § 220521(d).

<sup>3</sup> Bylaws of the United States Olympic Committee, Section 8.20 (2017).

<sup>4</sup> *Id.* at Sections 8.20.1--8.20.4.

<sup>5</sup> Sarah Hirshland, *USOC Statement Regarding Action to Revoke USA Gymnastics' Recognition as Member National Governing Body* [hereinafter November Hirshland Statement and Letter], United States Olympic Committee (Nov. 15, 2018), available at <https://www.teamusa.org/News/2018/November/05/USOC-Statement-Revoke-USA-Gymnastics-Recognition-As-Member-National-Governing-Body>.

reality of *belonging* to a national organization that *continues to* struggle to change its culture, to rebuild its leadership and to effectively serve its membership...*you deserve better.*"<sup>6</sup> You also wrote, "the challenges facing [USA Gymnastics] are simply more than it is capable of overcoming in its current form."<sup>7</sup>

On December 5, 2018, USA Gymnastics filed for bankruptcy, a move some suspected was aimed at preventing the USOC from moving forward with decertification.<sup>8</sup> In fact, USA Gymnastics Board of Directors Chair Kathryn Carson stated that the organization was not having trouble paying its bills.<sup>9</sup> Additionally, USA Gymnastics' own website states: "USOC process to revoke NGB status is on hold while Chapter 11 proceeding is underway," and the "Chapter 11 filing was *not* made for financial reason, but as a reorganization to enable survivors' claims, which are covered by insurance, to be resolved on an expedited basis."<sup>10</sup> Yet, according to a *Wall Street Journal* article, the filing "will put an automatic stop – perhaps permanently – to depositions and discovery related to USA Gymnastics in lawsuits filed by Mr. Nassar's victims."<sup>11</sup>

These articles raise questions about whether USA Gymnastics did in fact file for bankruptcy as a method of stopping USOC's decertification process. Yet it is unclear whether or not bankruptcy proceedings would in fact halt decertification proceedings. At first, the USOC was planning to move ahead despite the bankruptcy filing, as USOC spokesman Patrick Sandusky noted, "[T]he filing does not impact our Section 8 complaint and that process will move forward."<sup>12</sup> However, the USOC later declared that it would halt decertification proceedings and in the February 4, 2019 letter you sent to my office, you wrote:

Out of respect for the independence of the hearing panel and in deference to the bankruptcy court handling that proceeding, the Olympic Committee is not asking the panel to take an action at this time, but the Olympic Committee continues to monitor developments with respect to USA Gymnastics and reserved the right to request that the bankruptcy court permit the hearing panel to resume its work. With the revocation proceeding currently stayed, the Olympic Committee continues to work with USA Gymnastics to support the protection of athletes and the athletes' training for the 2020 Tokyo Olympics.<sup>13</sup>

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<sup>6</sup> *Id.* (emphasis added).

<sup>7</sup> *Id.*

<sup>8</sup> See Nancy Armour and Rachel Axon, *USA Gymnastics finds a solution for its worst problems, but it might create new ones*, USA Today, Dec. 5, 2018, available at <https://www.usatoday.com/story/sports/olympics/2018/12/05/usa-gymnastics-bankruptcy-filing-solution-problems/2221078002/>.

<sup>9</sup> Kathryn Carson, *Update from USA Gymnastics Board Chair Kathryn Carson*, USA Gymnastics (Dec. 5, 2018), available at <https://usagym.org/pages/post.html?PostID=23017>.

<sup>10</sup> USA Gymnastics, *Frequently Asked Questions about USA Gymnastics filing of a petition for protection under Chapter 11 of the Bankruptcy Code* (Dec. 5, 2018) (emphasis added), available at <https://usagym.org/pages/post.html?PostID=23015>.

<sup>11</sup> Rebecca Davis O'Brien and Katy Stech Ferek, *USA Gymnastics Files for Bankruptcy*, The Wall Street Journal, Dec. 5, 2018, available at <https://www.wsj.com/articles/usa-gymnastics-files-for-bankruptcy-1544041847>.

<sup>12</sup> Dan Murphy, *USA Gymnastics files for bankruptcy as part of 'reorganization'*, ESPN, Dec. 6, 2018, available at [http://www.espn.com/olympics/story/\\_/id/25461239/usa-gymnastics-files-chapter-11-bankruptcy-petition](http://www.espn.com/olympics/story/_/id/25461239/usa-gymnastics-files-chapter-11-bankruptcy-petition).

<sup>13</sup> See Letter from Brian D. Smith, Covington and Burling, to Chairman Charles E. Grassley, United States Senate Committee on Finance, February 4, 2019 (on file with Committee).

It remains unclear why USOC halted decertification proceedings out of “deference to the bankruptcy court” despite USA Gymnastics’ own admission that the filing was not financially motivated.<sup>14</sup> It’s also unclear why USOC would halt proceedings after issuing such a strongly worded press release declaring, “[s]eeking to revoke recognition is not a decision that we have come to easily, but I believe it is the right action.”<sup>15</sup> Above all, it is perplexing that you would halt these vital proceedings after informing the athletic community that “you deserve better” in reference to USA Gymnastics.<sup>16</sup>

To better determine why USOC chose to abruptly change course on its initial decision to decertify USA Gymnastics, please answer the following questions no later than May 10, 2019:

1. Is it USOC’s opinion that the bankruptcy filing prevents further action on decertification? If so, how?
2. Was the decertification of USA Gymnastics “strategic”?
3. If USA Gymnastics is not struggling financially, and its bankruptcy filing was purely organizational, then why has USOC halted its decertification of USA Gymnastics?
4. By the time the bankruptcy proceedings end, the 2020 Olympics would likely be only a few months away. Does USOC plan on proceeding with decertification of USA Gymnastics on the eve of the Olympic Games?
5. If you claimed that athletes “deserve better” than USA Gymnastics, then why have you halted decertification proceedings?
6. Please provide all internal communications relating to the decertification process. Please provide all communications between USOC and USA Gymnastics related to the decertification of USA Gymnastics. Please also provide all communications between USOC and USA Gymnastics related to USA Gymnastics’ bankruptcy.

If you have any questions, please contact Dario Camacho or Evelyn Fortier of my Committee staff at (202) 224-4515.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Committee on Finance

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<sup>14</sup> *Id.*

<sup>15</sup> See November Hirshland Statement and Letter, *supra* n. 5.

<sup>16</sup> *Id.*