

November 17, 2014

From: David Greifinger

To: Members of the Law & Legislation Committee and other interested parties

Re: USATF Board proposals to amend USATF Articles and Counter-Proposal from the Youth and Athletes Advisory Committees

Friends,

I am offering my take on the proposed changes to USATF Articles offered by the Board. The Board has advanced these proposals ostensibly to make USATF more efficient at the behest of the USOC.

While some of the technical proposals are commonsense and acceptable, the broad changes are not. The overall effect of the proposed changes would vastly weaken the membership's voice in governing USATF.

The Board and USOC apparently believe that stripping the constituents' authority and leaving decisions up to an unelected, unfettered CEO and Board are better for business—and the sport.

Not so.

First, this sport occupies a big part of our lives and our passion. We live and breathe it. For many of us, it is a substantial part of our professional lives. We know the sport better than any outside consulting firm trying to shove its latest version of “best practices” down our collective gullets.

Second, USATF is a National Governing Body as well as a business enterprise. It governs the sport. It is not Microsoft or Coca-Cola, which exist solely to make money. USATF's business and governance concerns are inextricably intertwined. For example the Nike contract requires USATF athletes to wear Nike products when representing the United States. This requirement is enforced through USATF's rules. We cannot surrender our say-so over arrangements such as these. The CEO, Board, and President must remain answerable to us.

We are USATF. We are a democratic organization. And we must maintain the respect and dignity we deserve as stewards of the sport.

I am submitting a set of alternate proposals—in a separate document—on behalf of the Athletes Advisory and Youth Committees that accords the membership the role in USATF that it deserves. The explanations for each Article are reproduced below. For the specific legislative language, please read the separate document.

Article 10: OFFICERS AND THEIR DUTIES:

Under the current Article 10, the Board selects the Board Chair. If the President is not selected as Board Chair, he or she serves as Vice Chair. The Board proposes to amend Article 10 to preclude the President from serving as Board Chair, and cement him or her as Vice Chair. The Board would choose its own Chair, who would answer to the Board, and not the membership. This is contrary to the democratic nature of USATF. In any democracy, the people choose their commander-in-chief. The counter-proposal specifies that the President—and only the President—shall serve as Board Chair.

The Board also proposes to amend Article 10 to authorize the Board Chair to appoint and remove member of the Ethics Committee. The Ethics Committee is governed by Regulation 16-G under which the Board Chair appoints members to staggered terms. Only the Board may remove for good cause. The Board's proposed amendment would politicize and weaken the committee. The counter-proposal deletes the proposal to give the Board Chair authority to remove members of the Ethics Committee, and leaves Regulation 16-G undisturbed.

Article 11: BOARD OF DIRECTORS:

The Board proposes to amend Article 11 to require a two-thirds vote to retain or dismiss the CEO. The counter-proposal deletes this language. The majority should rule. The counter-proposal also deletes the Board's proposed changes to Article 11-I, Vacancies, based on the Board's earlier unacceptable proposal to preclude the President from being Board Chair in Article 10. Article 11-I is to be left intact. (This is moot if the President is the Board Chair.)

The counter-proposal adopts some of the technical changes proposed by the Board in Article 11-A, Duties of the Board.

The counter-proposal adds an amendment to Article 11-B-11 to provide that the alternate International Athlete Board Member will be accorded the same rights and privileges as all other Board Members. In 2011, that Athletes Advisory Committee submitted a package of legislation to increase athlete representation on various USATF committees, including increasing the number of International Athletes on the Board from three to four. Because of some reluctance to increase the number of voting members from 15 to 16, a compromise was struck under which the fourth athlete would serve as an alternate, voting only if one of the three athlete members were absent. The alternate would otherwise have full rights and privileges as a Board member. The athletes elected Curt Clausen, a preeminent race walker and attorney, as their alternate. The agreement has not been

honored. Mr. Clausen has been locked out of executive sessions, has not received notice of meetings, has been excluded from receiving information available to other Board members, and has not had his expenses to attend meetings reimbursed, unlike all other Board members. Informal efforts to resolve this matter have been shunted aside. This discredits USATF and its tradition of heeding the voice of its athletes. The membership must act.

Article 12: NATIONAL OFFICE MANAGEMENT:

The current version of Article 12-A-1 defines the CEO's duties as follows:

“Management: Manage and supervise USATF's day-to-day affairs under the Board's policies and directives.”

The Board proposes to amend this language to read:

“Management: Manage and supervise USATF's day-to-day affairs under –specific policies and directives established by the Board, including the operations of the volunteer structure of the organization, committees, divisions, and associations.”

This language is unacceptable, as it renders the volunteers, associations, and committees subservient to the CEO. The CEO works for us, not vice-versa. In my opinion, this item is the most telling about the Board's proposals, and demonstrates why the membership cannot tolerate any further erosion of its voice in governing USATF. Needless to say, this language is deleted from the counter-proposal.

The counter-proposal otherwise adopts some technical amendments proposed by the Board. Language regarding the CEO's management of commercial assets is modified and moved to paragraph 15 of the counter-proposal.

Article 17: IAAF AND USOC REPRESENTATION:

The Board proposes to amend Article 17-A to specify that the Board Chair (rather than the President) shall serve as one of USATF's three delegates at the biannual IAAF Congress. This is unacceptable because the President represents USATF as the membership's elected leader. The counter-proposal deletes this proposed change. (This is moot if the President is Board Chair.) The Board also proposes to amend Article 17-C to provide that USATF will to pay the President's expenses to World Championships and Olympic Games. The counter-proposal specifies that the expenses must be reasonable.

The counter-proposal adds an amendment to Article 17-B to provide that the USATF membership, and not the Board, will nominate USATF's candidates for IAAF Council member and IAAF officers. The note provides for an open election for USATF's nominee to the IAAF Council immediately after the passage of this amendment.

Prior to 2009, USATF's membership voted for USATF's nominee for IAAF Council. The current Article 17-B cedes the authority to the Board the authority to make the nomination. This proposal returns the authority to the membership, effective immediately.

Bob Hersh is USATF's long-standing IAAF Council Member and has risen to the level of Senior Vice President. His service has been exemplary. A prominent Board member is campaigning to have the Board replace Mr. Hersh as USATF's nominee. Passage of this amendment this year is necessary because the Board will otherwise select the nominee for the next four-year term in February 2015.

Under the current Article 17-B, the Council Member is put in a position of having to play along to get along. He or she knows that questioning or disagreeing with the majority of the Board on any matter could result in the Board's replacing the Council Member at the earliest opportunity. This can compromise the Council Member's independence and impair that individual's value as a Board member.

The IAAF Council Member needs to be aware of the sports-related interests of all USATF constituencies. He or she should be nominated by all of USATF's members.

Article 18: FISCAL AND LEGAL MATTERS:

The Board proposes to amend Article 18-I to include:

“The volunteer structure of the organization, including committees, divisions, and associations, has no authority to bind USATF in contracts or other commercial agreements.”

This proposal states the obvious: Only the CEO may enter into contracts on behalf of USATF. But it does so in a hostile and condescending manner toward the membership. Language matters. The counter-proposal replaces this sentence with:

“Only the CEO, and President where required, may bind USATF to contracts or other commercial agreements.”

The Board also proposes to amend Article 18-G to have the Board Chair, rather than the President, appoint the Counsel to the Board. This is unacceptable. (This becomes moot if the President is also the Board Chair.) The Counsel to the Board is not Counsel of the Board. The Counsel to the Board should lend an outside perspective to USATF's legal affairs. This perspective should be focused on the membership, through the President as its elected representative. The Counsel to the Board's advice often carries great weight throughout USATF. The Board's proposal thus would shift a great deal of power from

the elected President to a Board Chair not chosen by the membership. The counter-proposal retains the President's authority to appoint the Counsel to the Board.

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