

USA DANCE, Inc.

Minutes of December 6, 2015 Executive Committee Phone Meeting as of 07-06-16

**Executive Committee Members**

Yang Chen, President

Peter Pover, Senior Vice President

Marta Pascale, Secretary

Scott Coates, Treasurer

Jean Krupa, Social Dance Vice President

Ken Richards – DanceSport Vice President

Roger Greenawalt, DanceSport Delegate

Inna Brayer, DanceSport Delegate

Leland Whitney, Investigating Officer of Wally Complaint

**Roll Call** – 8 of 8 members on the call, to include 2 DanceSport Delegates.

Quorum established.

Discussion ensued regarding a grievance filed by Barbara Wally with the USOC and Investigating Officer Leland Whitney's report of that grievance.

Yang takes issue with some findings.

**Peter moved to accept Leland Whitney's report of the Wally grievance.**

Second by Scott

Yes – unanimous; motion passes

**Note: Investigating Officer's Report is attached.**

Discussion ensued regarding **Yang's resignation as National President**. Yang resigns effective tomorrow, December 7, 2015. Per USA Dance bylaws, Senior Vice President Peter Pover will serve as National President filling the vacancy created by Yang's resignation.

Investigating Officer report regarding a 3 December 2014 grievance filed by Ms. Barbara Wally against certain USA Dance, Inc. Officials

USA Dance Investigating Officer, Leland Whitney

On 3 December 2014, Ms. Barbara Wally filed a second grievance<sup>i</sup> with USA Dance, Inc. (USAD). Ms. Wally had filed a first grievance<sup>ii</sup> on 28 April 2014.

The second grievance was filed against<sup>iii</sup> Yang Chen, Greg Warner and members of the National Advisory Committee (NAC) and the USA Dance Executive Committee (EC) Members:

- USAD National President, Yang Chen
- USAD Senior Vice President, Shawn Fisher
- USAD National Treasurer, Michael Brocks
- USAD National Secretary, Greg Warner
- USAD DanceSport Delegate, Inna Brayer
- USAD Social Dance VP, Jean Krupa
- USAD DanceSport Delegate, Roger Greenawalt
- USAD National Advisory Committee, Stan Andrews

On 28 July 2014, Barbara Wally had also filed a first complaint<sup>v</sup> against USAD with the United States Olympic Committee (USOC). In a follow-up telephone conversation with Yang Chen, USOC and USAD agreed that USAD would try to resolve the first complaint internally.<sup>vi</sup>

On 16 June 2015, Barbara Wally filed a second complaint<sup>vii</sup> against USAD with the USOC.

On 17 June 2015, USOC notified<sup>viii</sup> USAD of the 16 Jun 2015 second complaint against USAD.

On 18 July 2015, USAD filed a motion to dismiss<sup>ix</sup> the 16 June 2015 second complaint.

On 21 August 2015, USOC met internally to discuss USAD's motion to dismiss.

On 5 September 2015, USOC notified<sup>x</sup> USAD that the 18 July 2015 motion to dismiss the second complaint been denied; USAD was ordered to report back by 14 September 2015.

On 17 September 2015, USOC ordered<sup>xi</sup> that USAD and Ms. Wally enter into mediation.

On 19 October 2015, USAD notified<sup>xii</sup> USOC that Ms. Wally and USAD agreed to resolve the complaint via a USAD Investigating Officer.

On 30 October 2015, Ms. Wally's attorney notified<sup>xiii</sup> USAD of acceptance of Leland Whitney as the USAD Investigating Officer.

On 30 October 2015, the USAD EC voted to approve Leland Whitney as the Investigating Officer with responsibility defined by the statement:

“Note: If Leland Whitney is appointed as Investigating Officer, he will have 30 days under Article III.F.7. to complete his investigation and report back to the EC. Per Article III.F.7., the decision of the Executive Committee shall be final.”

On 31 October 2015, Leland Whitney was notified of his USAD Investigating Officer appointment.

On 2 November 2015, National President Yang Chen notified Leland Whitney that the report due date is 1 December 2015.

On 28 April 2014, Barbara Wally had filed a first grievance<sup>xiv</sup> with USA Dance, Inc. (USAD)

The grievance was filed against Yang Chen, Greg Warner, and certain members of the USAD Governing Council (GC):

- USAD National President, Yang Chen
- USAD National Secretary, Greg Warner
- USAD Senior Vice President, Shawn Fisher
- USAD National Treasurer, Michael Brocks
- USAD DanceSport Delegate, Inna Brayer
- USAD Social Dance Vice President, Jean Krupa
- USAD DanceSport Delegate, Roger Greenawalt<sup>xv</sup>

The time frame of actions referenced in the first grievance

The first grievance refers to actions occurring between 8 Jan 2014 and 12 April 2014.

Limitation of time frame of actions referenced in the first grievance

Ms. Wally states in her first grievance that actions through the date 12 April 2014,” should have concluded the matter.” Given Ms. Wally’s statement, this investigation addresses actions occurring on 13 April 2014 and the response of USAD thereafter.

The complaints

On 13 April 2014, the USAD Governing Council (GC) voted not to ratify Ms. Wally’s appointment as Director of K-12 Student Program. In the first grievance, Ms. Wally disputes the process that was used leading to the vote of the GC not to ratify her appointment.

Ms. Wally’s first grievance has 10 numbered paragraphs of complaints. The first 4 numbered complaints address actions occurring prior to 13 April 2014; as noted above, actions occurring prior to 13 April 2014 are not addressed here.

The remaining 6 numbered paragraphs of complaints are presented here:

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The final paragraph of the Ms. Wally’s first grievance:

Response of USAD to Ms. Wally’s first grievance

On 29 April 2014, National President Yang Chen sent an email<sup>xvi</sup> to USAD Chair of the Ad Hoc Grievance Committee (AHGC) – alternatively known as the National Advisory Committee (NAC) –, Dr. Stan Andrews, with notification that the grievance had been filed, and further, requesting that the grievance be dismissed forthwith.

On 23 May 2014, Dr. Andrews, followed up an earlier phone call and email to Ms. Wally with notification<sup>xvii</sup> that the National Advisory Committee (NAC) had reviewed<sup>xviii</sup> and set aside Ms. Wally’s grievance. Ms. Krupa, a member of NAC, states that she can’t recall being a part of this decision; she recalls Dr. Andrews asking questions. Ms. Wally was also notified that this finding could be appealed in writing to the Chair of the NAC, Dr. Andrews.

The National Advisory Committee at the time the first grievance was filed consisted of three individuals: Dr. Andrews, National Secretary Greg Warner and National Social Dance Vice President Jean Krupa. Mr. Warner and Ms. Krupa were cited as members of the EC and GC that voted not to ratify Ms. Wally’s appointment as the Director of K-12 Student Programs.

On 27 May 2014, Ms. Wally sent an email<sup>xix</sup> to Dr. Andrews and copied to members of the EC and GC stating disagreement with the NAC and formally requesting a hearing as per Article III.F.4 HEARING PANEL.

On 6 June 2014, Ms. Wally sent an email<sup>xx</sup> request for the status of the hearing request. Dr. Andrews followed up with a phone call informing her that a hearing would not be afforded. Instead, the grievance would directly be decided by the EC for final disposition, even though the majority of EC members at the time were cited in the grievance.

On 14 June 2014, Ms. Wally formally objected<sup>xxi</sup> to the EC making a final disposition because the majority of EC members at the time were cited in the grievance. Ms. Wally suggested a list of impartial USAD officials from which 3 could be selected to the panel:

Present GC Members:

Former Officials

Ken Richards

Efrosyni Iosiphidis

Inna Brayer

Taras Safitsky

Jerry Bonmer

Peter Pover

Esther Freeman

Lydia Scardina

Bill Rose

Dorene Goin

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On June 25, 2014, National Secretary Greg Warner contacted Ms. Wally by phone notifying her that the EC had voted unanimously to deny the grievance and Ms. Wally had no further recourse under the Bylaws. Mr. Warner followed up with a letter on 1 July 2014xxii.

On 28 July 2014, Ms. Wally filed a first complaint against USAD with the USOCxxiii.

On 3 December 2014, Barbara Wally filed a second grievancexxiv with USA Dance, Inc. (USAD) The grievance was filed against Yang Chen, Greg Warner and members of the National Advisory Committee (NAC) and the USAD Executive Committee (EC) Members:

- USAD National President, Yang Chen
- USAD Executive Vice President, Shawn Fisher
- USAD National Treasurer, Michael Brocks
- USAD National Secretary, Greg Warner
- USAD DanceSport Delegate, Inna Brayer
- USAD Social Dance Vice President, Jean Krupa
- USAD DanceSport Delegate, Roger Greenawalt
- USAD National Advisory Committee, Stan Andrews

The time frame of actions referenced in the 2nd grievance

The second grievance refers to actions occurring between 13 April 2014 and 3 December 2014.

The complaints

Ms. Wally's second grievance has 4 numbered paragraphs of complaints.

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Response of USAD to Ms. Wally's second grievance

USAD did not respond to Ms. Wally's second grievance until after 16 June 2015, the date that Ms. Wally filed a complaint with the USOC.

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Findings of the Investigating Officer regarding Ms. Wally's second grievance

The date when the second grievance was formally and properly served upon USAD is unclear. Therefore, the Investigating Officer (IO) finds no fault with USAD on the lack of timely response on the part of USAD to the second grievance.

The second grievance is presented in full in Ms. Wally's second complaintxxv to the USOC, therefore the IO provides findings on the complaints contained therein.

Second Grievance Complaint 1. Improper executive direction and bias. This complaint references Ms. Wally's first grievance. The first grievance was against Mr. Yang Chen, among others. Mr. Chen, following USAD Bylaws, ARTICLE III – MEMBERSHIP IN USA DANCE, F. GRIEVANCES, 3. COMPLAINT DISPOSITION, forwarded the grievance to Dr. Stan Andrews, chair of the National Advisory Council (NAC). Mr. Chen recommended that the NAC "reject the grievance and dismiss it forthwith."

The IO finds it is self-evident that Mr. Chen's recommendation that the NAC reject and dismiss the grievance, in part against himself, created a perception of bias and, as such, is improper in light of the Code of Ethics for USA Dance, Inc.

Consider the underlined (the IO added the underlining) clause stated in the policy below:

Code of Ethics for USA Dance, Inc.

Goal: To establish a set of principles and practices applicable to the USA Dance Governing Council, other national officials, and those who serve on boards and committees of USA Dance Chapters that will set parameters and provide guidance and direction for appropriate conduct and decision-making.

Code: Members of the Governing Council of USA Dance, other national officials, and those who serve on boards and committees of USA Dance Chapters are committed to observing and promoting the highest standards of ethical conduct in the performance of their responsibilities for USA Dance. Volunteers serving in these capacities pledge to accept this code as a minimum guideline for ethical conduct and shall:

...

Professional Excellence 6. Maintain a professional level of courtesy, respect, and objectivity in all USA Dance activities.

Second Grievance Complaint 2. Lack of impartial review committee. This complaint references Ms. Wally's first grievance. Upon receiving the grievance forwarded by Mr. Chen, Dr. Stan Andrews, Chair

of the NAC, following USAD Bylaws, ARTICLE III – MEMBERSHIP IN USA DANCE, F. GRIEVANCES, 3. COMPLAINT DISPOSITION, attempted to resolve the grievance through informal means. The NAC set aside the first grievance. The first grievance was against National Secretary Greg Warner and Social Vice President Jean Krupa among others. Greg Warner and Jean Krupa were two of the three members on the NAC that set aside the first grievance.

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The IO finds that it is self-evident that the NAC's decision to recommend to set aside the first grievance, that was in part against two of the three members of the NAC itself, created a perception of bias, and as such, is improper.

Second Grievance Complaint 3. Denial of grievance hearing. This complaint references Ms. Wally's first grievance. Upon notification that the NAC voted to set aside Ms. Wally's first grievance, following USAD Bylaws, ARTICLE III – MEMBERSHIP IN USA DANCE, F. GRIEVANCES, 4. HEARING PANEL, Ms. Wally requested a hearing. The Bylaws state in part:

Upon receiving the grievance, the President shall promptly appoint at least three (3) officials of USA Dance (or former officials) at least one of whom shall be a member of the current GC and not of whom shall have an interest in the subject matter of the grievance or complaint, to hear evidence, make findings of fact, and adjudicate the issues raised.

Via a telephone call from Dr. Andrews, Ms. Wally was notified that a hearing would not occur. Instead, the EC would make the final disposition of the first grievance. The first grievance was against several of the members of the EC.

Mr. Chen argued, in the 18 July 2015 Motion to Dismiss<sup>xxvi</sup> the USAC complaint filed by Ms. Wally, the decision that the EC would make final disposition of the complaint was proper:

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The IO finds it is self-evident that the EC's decision to make the final disposition of the first grievance, that was in part against several of the members of the EC itself, created a perception of bias, and as such, is improper.

The IO finds that:

- By not appointing a hearing panel, the President, Mr. Chen, appears to have violated the USA Dance Bylaws ARTICLE III. F.4. HEARING PANEL.
- Mr. Chen made a convincing argument that USAD should not have to bring every grievance to a Hearing Panel if so requested. Mr. Chen argued that the EC did act in good faith and in the best interests of USAD. The IO suggests that there should be a way to dispose of unwarranted grievances, and the lack thereof is a short coming in the USAD Bylaws. This finding does not imply that Ms. Wally's grievances are unwarranted.
- USAD Bylaws should be considered for clarification and/or revision to define a process to allow unwarranted grievances to be addressed without proceeding to a hearing.

Second Grievance Complaint 4. Denial of impartial adjudication and due process.

This complaint references Ms. Wally's first grievance. National Secretary Mr. Greg Warner notified, via a phone call and subsequent letter, that the EC had voted to deny Ms. Wally's first grievance and there was no further recourse under the Bylaws. Ms. Wally states that the denial of a hearing panel denied her the opportunity to present evidence and denied her due process.

The Investigating Officer finds it is self-evident that the EC's vote to deny Ms. Wally's first grievance, that was in part against several of the members of the EC itself, created a perception of bias and, as such, is improper.

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Ms. Wally's Second Grievance Requested Resolution:

The IO finds that:

- In summary, the four complaints in Ms. Wally's second grievance are upheld due to the perception of bias on the part of the parties named in this grievance that participated in the resolution process, thereby creating the perception of violation of The Code of Ethics of USA Dance, Inc. The Code requires objectivity in all USAD activities. A perception of bias and/or the perception of violation of the Code of Ethics of USA Dance, Inc. in the handling of formally filed grievances negatively impacts the reputation of USAD. It could permanently affect the relationship between USAD and the USOC. This finding relates

only to the perception of bias. The IO does not find that bias actually influenced the decisions discussed herein.

- USAD Bylaws should be considered for clarification and/or revision to define a process to allow unwarranted grievances to be set aside without proceeding to a hearing. This finding does not imply the Ms. Wally's grievances are unwarranted. Ms. Wally or her representatives should be allowed to make recommendations regarding such modifications.
- USAD Bylaws regarding grievances should be considered for clarification and/or revision to explicitly disallow people, against whom a grievance is filed, from participating in the resolution of the grievance. Ms. Wally or her representatives should be allowed to make recommendations regarding such modifications.
- USAD Bylaws regarding the process and timing of replacing Directors on the GC should be considered for clarification and/or revision. Ms. Wally or her representatives should be allowed to make recommendations regarding such modifications.
- Ms. Wally should not be reinstated to the GC. After nearly two years, reinstatement would be too disruptive to USAD. On 14 Nov 2015, in a phone call between the IO and Ms. Wally, Ms. Wally stated that she no longer seeks reinstatement.
- Ms. Wally's first grievance should be considered to be resolved.
- Upon action of the EC to either accept or reject this report, Ms. Wally's second grievance should be considered to be resolved.

i Barbara Wally USOC Grievance.pdf, USOC EXHIBIT A

ii Barbara Wally USOC Grievance.pdf, USOC EXHIBIT L

iii Barbara Wally USOC Grievance.pdf, USOC EXHIBIT K

iv Response to USA Dance Dismissal Argument v.2.pdf page 1, para 2

v 14 November 2015 TELCON: Barbara Wally and Leland Whitney

vi 17 November 2015 TELCON: Yang Chen and Leland Whitney

vii USAD NOTIFICATION.pdf

viii USAD NOTIFICATION.pdf

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ix 3002\_001.pdf

x Wally 9 04 15 ORDER.PDF

xi 9.17.15 ORDER.pdf

xii Fwd Wally v. USA Dance - Section 10.pdf

xiii Fwd Email Vote Pertaining to Wally Issue.pdf

xiv Barbara Wally USOC Grievance.pdf, USOC EXHIBITS A and K

xv Minutes from GC 13 April 2014 meeting – Director Positions marked CONFIDENTIAL

xvi Barbara Wally USOC Grievance.pdf, USOC EXHIBIT C

xvii Barbara Wally USOC Grievance.pdf, USOC EXHIBIT E

xviii 23 November 2015 TELCON: Jean Krupa and Leland Whitney

xix Barbara Wally USOC Grievance.pdf, USOC EXHIBIT L

xx Barbara Wally USOC Grievance.pdf, USOC EXHIBIT G

xxi Barbara Wally USOC Grievance.pdf, USOC EXHIBIT H

xxii Barbara Wally USOC Grievance.pdf, USOC EXHIBIT I

xxiii Barbara Wally USOC Grievance.pdf page 2, complaint 5

xxiv Barbara Wally USOC Grievance.pdf

xxv Barbara Wally USOC Grievance.pdf, USOC EXHIBIT L

xxvi 3002\_001.pdf