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January 7, 2015

BY U.S. MAIL AND E-MAIL

Board of Governors
c/o Brian McDonald, President
National Dance Council of America, Inc.
P.O. Box 829
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To the Board of Governors of the National Dance Council of America, Inc.:

We write on behalf of our client, USA Dance Inc. (“USA Dance”), to notify the National Dance Council of America, Inc. (“NDCA”) that it and its governing member organizations have violated federal antitrust laws—and continue to violate federal antitrust laws—by harming competition in the market for the provision of ballroom dance competitions in the United States. Specifically, an NDCA rule (“the Exclusionary Rule”) forbids all NDCA-registered “Judges, Scrutineers and other officials,” “includ[ing] but not limited to MC’s, Music Directors, Registrars, Competition Organizers, etc,” “to officiate at or organize any Championship, Multi-Day Competition, or Local One-Day Event that is not sanctioned by the NDCA or other recognized organizations.” The agenda for the July 2014 NDCA meeting—at which the NDCA Board of Governors (the “Board”) representing NDCA’s governing member organizations collectively reaffirmed this rule and voted to arbitrarily withdraw a long-standing exception to the rule allowing judges and other officials to serve at USA Dance-sponsored competitions, (“USA Dance Exception”)—states as the “Reason” for the Board’s reaffirmation of the Exclusionary Rule and withdrawal of the USA Dance Exception: “Not needed.”

The NDCA and its governing members’ adoption of this unjustified, exclusionary rule and vote to withdraw the USA Dance Exception have denied, and threaten to further deny, USA Dance’s access to elements necessary for USA Dance to compete with the NDCA and its member organizations in the provision of ballroom dance competitions. In continuing to support the Exclusionary Rule, the NDCA and its member organizations, associating as competitors in the provision of ballroom dance competitions, have conspired to commit and have committed a horizontal group boycott in restraint of trade in violation of the Sherman Act § 1, 15 U.S.C. § 1, and the Clayton Act § 4, 15 U.S.C. §15, as detailed below.

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I. The NDCA's Exclusionary Rule

The NDCA is an association of ballroom dance organizations, and describes itself as “the official governing council of dance and dancesport in the USA.” The NDCA and its member organizations collectively dominate the sanctioning of ballroom dance competitions in the United States—controlling over 80% of such competitions. The NDCA and its members have collusively exercised their market power and agreed to prohibit, through the Exclusionary Rule, NDCA-registered judges and other officials from officiating at or organizing competitions hosted by non-NDCA members or otherwise not NDCA-sanctioned through an exception for recognized organizations in Section I(G)(1) of the NDCA Rule Book.

NDCA registration is necessary for judges, who rely on the adjudication of NDCA-sanctioned ballroom dance competitions as a source of income. Because denial of NDCA registration eliminates this source of income and because the NDCA imposes penalties for violating the Exclusionary Rule, potentially resulting in monetary fines, six-month suspensions, or registration cancellation (with no refund), non-compliance with the Exclusionary Rule by NDCA-registered judges and other officials is not an option. *See* NDCA Rule Book at § I(G)(1).

For some time, USA Dance-sanctioned competitions were exempted from or granted an exclusion from part of the Exclusionary Rule. NDCA-registered judges and officials were allowed to, and did, participate in USA Dance-sanctioned ballroom dance competitions for years. USA Dance is the U.S. member of the World DanceSport Federation (“WDSF”), the International Olympic Committee-recognized world governing body for DanceSport. USA Dance has provided high-quality competitions that have attracted top amateur dancers, leading to the recognition of USA Dance by the U.S. Olympic Committee as the National Governing Body of DanceSport in the United States.

II. The withdrawal of the USA Dance Exception

In or around July 2014, the NDCA Board of Governors—which consists of all of the competing member organizations comprising the Board and copied on this letter—voted to rescind the USA Dance Exception with no justification, explanation, or opportunity for USA Dance to be heard. NDCA officers further employed intimidation and made false statements concerning USA Dance to extract an affirmative vote from the voting Board members, some of whom initially opposed withdrawal of the USA Dance Exception. As but one example, NDCA officers have misrepresented—and continue to misrepresent—to judges and others that USA Dance prohibits those who judge USA Dance-sanctioned competitions from judging NDCA-sanctioned competitions. To the contrary, USA Dance only requires, reasonably, that 50 percent of the judges on each panel in national qualifying events (“NQE”) be licensed by the WDSF. USA Dance does not prohibit NDCA-registered judges from obtaining a WDSF license. USA Dance encourages it and supplements the cost of the training as part of its nonprofit 501(c)(3)

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educational charter. In addition, USA Dance has openly proclaimed its policy of Freedom of Participation in Dance, supporting the freedom of judges to judge at non-USA Dance sanctioned events.

The withdrawal of the USA Dance Exception has injured and threatens to cause further injury to USA Dance in its business of providing high-quality ballroom dance competitions and fulfilling its mission as the official U.S. member ballroom organization of the U.S. Olympic Committee to advance amateur competitors to Olympic Family and other international competitions. As a result of the NDCA's Exclusionary Rule, some judges have withdrawn from their commitments to adjudicate upcoming USA Dance competitions for fear of losing their NDCA registration, paying fines, or both. The NDCA has recently begun to issue letters to NDCA-registered officials to suspend or fine them for judging at non-NDCA sanctioned competitions. The NDCA has created a climate of fear and intimidation in the dance industry, causing judges and officials to withdraw their USA Dance memberships or refuse USA Dance-sponsored engagements. This has limited USA Dance's access to NDCA-registered judges, disrupted USA Dance operations, and inhibited choices in the marketplace for USA Dance ballroom dance competitions.

The NDCA and its member organizations' inconsistent and unprincipled enforcement of their Exclusionary Rule also belies any legitimate justification for the Rule. NDCA governing members permit NDCA-registered judges and other officials to participate in non-NDCA-sanctioned events run by the governing members themselves or their franchisees, or that are somehow otherwise in the governing members' own financial interests. Indeed, the NDCA and its member organizations have created numerous exceptions to the Exclusionary Rule when it suited the governing members' interests and did not involve direct competition with NDCA-sponsored dance competitions.

Significantly, the NDCA and its member organizations have denied USA Dance access to officials at a time when ballroom dance competition has been increasing in popularity and when the NDCA and its members have sought increasingly to compete with USA Dance. For example, the NDCA sanctions the Brigham Young University national amateur championship event which competes with the USA Dance National DanceSport Championship event.

The NDCA and its governing member organizations' intent for the unjustified Exclusionary Rule is clear: to interfere with competition in the marketplace that challenges the NDCA and its governing members' dominance of the sport.

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III. The NDCA's Exclusionary Rule violates the Sherman Act § 1.

It is a fundamental rule of antitrust law that horizontal competitors, such as the NDCA member organizations, who conspire to deprive another competitor, like USA Dance, of an “element essential to effective competition,” *i.e.*, NDCA-registered judges and other officials, violate § 1 of the Sherman Act, 15 U.S.C. § 1. *See Nw. Wholesale Stationers v. Pac. Stationary & Printing*, 472 U.S. 284, 296-98 (1985) (horizontal boycott by competitors to deny access to “an element essential to effective competition” is *per se* unlawful); *see also United States v. Visa U.S.A, Inc.*, 344 F.3d 229, 239-44 (2d Cir. 2003) (affirming § 1 judgment for plaintiff under rule-of-reason analysis). The NDCA and its members' adoption of the Exclusionary Rule and withdrawal of the USA Dance Exception have also injured USA Dance in its “business or property” within the meaning of § 4 of the Clayton Act, 15 U.S.C. § 15. The injury is to USA Dance's competing in the market for ballroom dance competitions, including national events, as it has been denied access to a key component of competition: judges and other officials.

The NDCA's use of coercive enforcement mechanisms, such as NDCA-registration suspension and cancellation and fines for noncompliant judges, constitutes a classic group boycott in restraint of trade by the competitors who serve on the NDCA Board. As the dominant sanctioning body for ballroom dance in the United States, the NDCA has unlawfully exercised its market power to exclude competition by depriving competitors from necessary inputs. *See Nw. Wholesale Stationers*, 472 U.S. at 294 (holding it *per se* unlawful where the joint efforts of firms disadvantage competitors by “either directly denying or persuading or coercing suppliers or customers to deny relationships the competitors need in the competitive struggle”). Furthermore, we are aware that the NDCA wielded its market power to coerce compliance with its Exclusionary Rule and anticompetitive scheme by threatening its members with expulsion or sanction. The United States' antitrust laws do not permit entities that dominate the marketplace to act as governmental regulatory bodies and restrict others' freedoms to associate and do business with whomever they wish.

Accordingly, USA Dance demands that: (1) the NDCA immediately withdraw all rules restricting judges' and others' participation in non-NDCA-sanctioned ballroom dance competitions; and (2) within 14 days of withdrawal, the NDCA notify all NDCA-registered judges and other officials in writing of the removal of all restrictions against their participation in non-NDCA-registered ballroom dance competitions.

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Please do not hesitate to contact us should you require additional information.

Very truly yours,
CONSTANTINE CANNON LLP

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