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August 11 , 2004

George Homewood , General Chair
Virginia Swimming

Jim Garner, General Chair
Potomac Valley Swimming

SUBJECT: Team Registrations in VA Swimming and Potomac Valley Swimming

Gentleman:

I am in receipt of an email from George Homewood, General Chairman of Virginia Swimming, requesting assistance in resolving a registration dispute between the two LSC's. George's e-mail was sent to a variety of individuals in USA Swimming. Because of the authority delegated by 506.5.6 "the Rules and Regulations Committee or its designee... shall be responsible for all redistricting procedures for USA Swimming." The heart of these procedures is contained in Appendix 6-E of the Rules and Regulations.

I have consulted with Wells O'Brien, General Counsel and member of Rules and Regulations and John Morse, Chairman, National Board of Review. In particular Wells has served as the chairman of the Legislation Committee prior to its consolidation with the Rules committee and has authored a variety of opinions on similar registration issues. One significant set of opinions was authored by Wells dealing with the questions raised during the early 1990's on registration of Curl-Burke swimmers and satellite teams. This involved a dispute with Maryland Swimming.

I am attaching the e-mail containing this position which makes the claims in relation to registration and LSC affiliation issues. I am summarizing them below to gain a perspective for the issues:

1. "A decade ago, a team in Occoquan (located in Prince William County, VA) decided to move from Virginia Swimming (VSI) to Potomac Valley Swimming (PVS) because PVS is a compact LSC and no overnight travel to LSC meets is required. VSI objected so the team (OCCS) rented a PO Box in Fairfax as their "official" address"

This appears to be the case of an existing team being part of VA Swimming and "transferring" to Potomac Valley.

2. "About 5 years ago, a new pool facility was built next to the Redskins training center in Ashburn (located in Loudoun County, VA) and using the same PO Box convention became a PVS team (Ashburn Village Swim Team—AVST) for the same reason even though like Occoquan their practice facility and all of their swimmers reside in VSI territory".

This appears to be a case of an existing team changing its name and then changing their registration to Potomac Valley Swimming based on a post office box address.

3. “Almost immediately a VSI team (then Ida Lee Swim Team, now Snowbird Swimming) in Leesburg (the County seat of Loudoun County, VA) decided that it would be so much easier to not have to travel for meets—and they couldn’t compete successfully for swimmers with the new AVST because of the travel issue—and so they too pulled the PO Box stunt and became a PVS team. “

This appears to be the case of an existing team changing its name and then changing their registration to Potomac Valley Swimming based on a post office box.

4. “Now, this same Snowbird team in Leesburg wants to set up a practice group 90 minutes deeper into VSI territory...”

This appears to be the case of a team registered in Potomac Valley establishing a satellite group of swimmers in VA Swimming.

The word “appears” is shown several times above because it is possible all the facts are not available. However, I would like to provide the previous guidance developed earlier and give you my opinion on handling of the situation.

Item 1 should be addressed through the redistricting procedures set forth in Appendix 6-E. In particular this is covered by 6E.1 which covers a club changing from one LSC to another. Given the statements of VA Swimming objection, there should be a record of the vote taken by the respective House of Delegates and if one House did not agree then the transfer appears to not be in compliance with the requirements and is invalid. There also should be a record of the transfer retained at USA Swimming headquarters and there would appear to be none.

The second point here is also directed to the use of the PO Box. The mailing address per se does not establish the location of the team. Rather, the location of the club’s business records is the principle deciding factor. The club, like any business, has records it retains for tax purposes, for payroll and other financial records, membership records and competition records. These of course are just examples but the point is that it is not a mere Post Office Box issue but goes to the crux of where the club does its business. That then should be applied to the location descriptions in Appendix 6D.

In the case of item 1, this situation has existed for at least 10 years and if acceptable to both LSC’s could be allowed to continue with appropriate documentation filed with USA Swimming headquarters. In any event this 10 year period may be mitigation for the current situation in future reviews and the leadership of the two LSC’s should consider that.

Item 2 – The same criteria for the location of the club’s business records should be applied. Registration for the 2005 membership year should then be directed to the LSC determined to have the location where the club has its business records.

Item 3 - The same evaluation on where the business records are should be made and the same action taken as in item 2 should be taken for the 2005 membership year.

Item 4 – This deals with the establishment of a satellite team and as discussed in the Curl-Burke opinion could be looked at from two perspectives. The Snowbirds could establish a satellite program in Virginia with the satellite program being part and parcel of the club itself. In that case the coaches and athletes would all be members of Snowbird. The satellite program under this situation is not a separate club and therefore the satellite program would not have to register with USA-Swimming since it is already a part of

Snowbird. The swimmers and coaches would register with the LSC where the club is registered. If the determination is made that Snowbird is a team in Virginia then that is where the athletes and coaches register and it is quite acceptable for them to have the satellite program in another location in Virginia. The same principle applies if the Snowbirds are determined to be registered in Potomac Valley.

If the Snowbirds intend to set up a separate club in Virginia that would be affiliated with Snowbird and operate under its direction, then the satellite program is a new club and should be registered in Virginia. Even though the program is affiliated with the Snowbirds it would have to register in Virginia Swimming.

The determination of where the club retains its business records and similar activities is absolutely critical and requires the active involvement of both LSC leadership teams. In each event the final settlement of the LSC affiliation will require some documentation which does not exist today since the clubs may be outside the geographic descriptions contained in Appendix 6D for the LSC's.

The LSC leadership team should develop their conclusion together to resolve the LSC club location. This is a difficult undertaking because of the desire to retain teams and to build the LSC's. If it is helpful both of you can plan to meet with Wells and me at the convention and see what we can resolve or discuss alternatives if that is not possible to come to a mutual resolution.

After reviewing this situation I would appreciate hearing from you as to the future direction. The more of this problem resolved at the LSC level the better the opportunity for success in continuing a positive direction to building the base in all our LSC's.

Sincerely,

Don J Hart, Chairman
Rules and Regulations