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Background Reporting, Asset Location, Due Diligence
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Report

10/9/2022

To: USA Curling Board of Directors
From: Patrick McPherson
Re: Jeff Plush

Introduction:

Fathom was engaged to review the Report of the Independent Investigation to the U.S. Soccer Federation Concerning Allegations of Abusive Behavior and Sexual Misconduct in Women's Professional Soccer (Yates') issued October 3rd, 2022, and to conduct an inquiry into the involvement of USA Curling CEO Jeff Plush relative to Meleana Shim's complaint against Thorns coach Paul Riley, and Plush's handling of the complaint and related actions once the complaint was received. The interviews conducted as part of this investigation were done by Scott Gray.

Investigation:

We were able to interview Jeff Plush, former Commissioner of the NWSL and Current CEO of USA Curling, Eric Gleason, NWSL & USSF CFO in 2015, an owner of one of the original eight NWSL teams that formed the league, and a USSF Official from 2015 with involvement and knowledge of the Shim complaint.

We attempted to contact other USSF Officials from 2015, Matt Golub (President of the Thorns in 2015) Gavin Wilkinson (Thorns General Manager in 2015), Tony Novo (Sky Blue General Manager in 2015) and Aaran Lines (Flash Vice President in 2015). We received no response from any of these people.

I will first outline the information obtained from the interviews we conducted. I will then compare and contrast this information with what is highlighted in Yates'.

Plush Interview:

Plush firmly believes that his involvement in the handling of the Shim complaint was appropriate to the extent that his responsibility and authority as the NWSL Commissioner allowed. Plush does not recall whether when he was hired as Commissioner, he was provided a job description. He outlines his duties as Commissioner as follows:

- Day to day league business operations
- Public Spokesperson
- Match Scheduling
- Referee Scheduling
- Player transactions
- Mediation of player/team contract issues
- Player eligibility

Plush reports having no authority over rules, policies, or substantive league decisions. All of those topics were managed by the USSF and the league owners. When anything was brought to his attention on matters of this nature, he forwarded them on to USSF officials such as Flynn, Gulati, and Levine, and certainly any legal issues or concerns were shared with Levine as the league's General Counsel.

In short, although he was titled the Commissioner of the league, Plush had limited or nonexistent authority to function unilaterally on any issues or decisions beyond the scope of his day-to-day duties outlined above.

I will note here that Yates' makes a number of references to Plush not responding to their request to interview him for their report. Plush states that he declined to respond on advice of his legal counsel, and now recognizes that it would likely have been preferable to have sat for interviews with the Yates team.

It should also be noted here that Plush states that notwithstanding what is reported in Yates' (page 8),

"—and Plush and Levine received the 2015 Thorns Report—"

The Thorns Report was sent to Lisa Levine only, he never had possession of a copy of the Thorn Report, he never read the Thorn Report, and only recalls reading the cover page of the report provided to him by Levine, which was authored by outside counsel to the Thorns and stated that the investigation uncovered no illegal acts by Riley. Plush acknowledges that although he did not read the Thorns Report, he was familiar with its content as his and Levine's offices were two doors apart and they spoke frequently on a day-to-day basis and Levine informed him of the contents of the report.

Plush concluded our final interview saying that he is devastated by the accusations against him when he did nothing wrong. His entire career and reputation are in jeopardy, when in the entire Yates' Report there is only once instance referencing an athlete alleging sexual misconduct by a coach, and that is when Shim reported her complaint to Plush, which he immediately shared with the proper USSF officials, and the coach was fired within a week. Beyond that, he had no authority to hire, fire, or discipline coaches.

Detail of Plush's actions relative to the Shim complaint will be discussed later in the report.

Interview with owner of one of the original 8 NWSL teams:

The team owner, who wishes to remain unnamed, reports that when the NWSL was hastily launched, it became immediately clear that the governance issues were a complete disaster. Although the League was an LLC owned jointly by the owners, "vast powers" were granted to the USSF through the management agreement that essentially allowed USSF to manage the League, yet in his opinion the USSF was ill-equipped to run the league as it needed to be run. The owner cites massive conflicts of interest regarding sponsorships, players salaries, and shared positions between the League and USSF. Plush was the Commissioner of the League but officed with and was paid by the USSF, Levine was General Counsel of the League and was also one of USSF's attorneys, Gleason was the CFO of both the league and the USSF. The owner credits USSF in its efforts to create the League and admits that the

League couldn't have existed without the financial support of USSF, but he believes there should have been much more thought and preparation in the governance area of the League.

The owner states that in his view, the structure as it was between the USSF and the League did not allow Plush to function as true Commissioner and Plush did as good a job as he could with the limited authority he was afforded. The owner was involved in the interviewing and hiring of Plush for the Commissioner role and felt they had found the right guy. He felt Plush had a good idea of what he wanted to do, but it became clear early on that the control over strategic decisions was so extraordinarily constrained by the USSF that Plush's role was weak and relied almost exclusively on USSF officials such as Flynn and Gulati.

The owner had read Yates' and suggested that he thought there should have been more attention paid to League governance issues because in his opinion, the lack of governance was the cause of what occurred with the various coaches and their treatment of athletes. The owner also noted that Yates' itself confirms his opinion that Plush had little authority when the report states (page 35)

"The owners failed to appoint a full-time league Commissioner, and even when they did, they failed to impart sufficient authority for the role to have a meaningful impact on the League's direction or operations.

In regard to his views on Plush's involvement with the Shim complaint and whether Plush had done anything wrong, he stated:

“He couldn’t have done anything wrong- he had no power! He did what he was supposed to do, and given the structure of things, he did all he could do”.

The owner closed the interview by offering his opinion that given the poor structure of the relationship between the League and the USSF, and the struggles with governance, made it the case that the League owners and the USSF hierarchy were ultimately collectively responsible for what occurred.

Interview USSF Official:

We were able to interview a USSF official from 2015 who had involvement and knowledge of the Shim complaint. This official stated that they were willing to speak with us because they have tremendous respect for Jeff Plush and feel that it is unfair that he is being maligned over his involvement with the Shim complaint and the events following. The official agreed to a limited interview on the conditions that their name not be used in my report, and we were to limit our questions to issues related only to Plush.

The official stated Plush did absolutely nothing wrong in relation to the Shim complaint. Further, that he did everything he was expected to do within his role as Commissioner, and there wasn’t anything that he should have done, that he didn’t. The official also confirmed that the issue of a complaint about coach misconduct towards a player did not fall in Plush’s area of responsibility, and when he was made aware of the Shim complaint, he brought it to the attention of the various authorities that he should have.

Interview Eric Gleason, CFO of USSF and the NWSL in 2015- now CFO with USAC:

Eric Gleason (Gleason) states that Plush shared the Shim complaint with him, although isn't sure when he received it. Gleason states that after reading it, he went to Lisa Levine's office and spoke with her about it... he recalls doing so in the context of "wow, what do you think about this?" Issues related to something like this were not within his purview as CFO, but he took an interest, nonetheless. He recalls Levine telling him that she was handling it. Gleason further stated his belief that a complaint of this nature would be handled by Levine or Flynn and didn't think Plush would have been expected to have much if any involvement.

The Yates' Report:

In this section of my report, we will highlight references to Plush in the Yates' Report and juxtapose those references with information obtained in this investigation.

1. "Certain witnesses- including the former Commissioner of the NWSL, Jeff Plush—never responded to our outreach" (page 3).

As referenced earlier, Plush did respond to the Yates team on advice of his legal counsel.

2. "In 2016, NWSL Commissioner Jeff Plush and Levine took steps to devise a set of workplace policies, including an anti-harassment policy, and engaged an external firm to provide initial drafts... over the course of the next year, there was no evidence that any movement occurred..." (page 36).

Plush recalls that this work product was moving along but had not been completed by the time he left the NWSL.

3. Sky Blue players also reported being forced to live in inappropriate situations. One player moved into a house with her teammates only to find that there was an older man still living in it, who expected to continue living there with the players.

Plush reports that he was made aware of this issue by one of the Sky Blue players, who informed him that the older male in question would hang around the players when they were using the pool and would ogle them and make comments about their appearance. Plush states that although he lacked the authority to react to this situation unilaterally, he reached out to Tony Novo at Sky Blue, and he corrected the situation.

4. "Shim forwarded her email complaint to NWSL Commissioner Jeff Plush a few hours after sending. Within minutes of receiving the email, Plush forwarded it to Levine, commenting: See

Below. Not Good. An hour later, Plush forwarded it to Gulati and Flynn: the following day he forwarded it to USSF CFO Eric Gleason. All agreed it was important to monitor the situation. Plush spoke with the Thorns (with Paulson) the evening he received the complaint, and the following morning (with Wilkinson)” (page 64).

Although substantially accurate, Plush recalls a slightly different scenario. Plush states that after forwarding the Shim complaint to Levine, he and Levine spoke and agreed to reach out to the Thorns. They called Paulson together the same day. Plush recalls that the tenor of the conversation was that this was a serious matter and he and Levine wanted to make sure the Thorns would do the right thing and that Paulson would get on the issue right away. Jeff does not specifically recall the phone call to Wilkinson the following day. In any case, he recalls that Levine took responsibility of matters from that point.

5. “On September 22, 2015, the day before Riley was terminated from Portland, Sky Blue expressed interest in hiring him... That same day, Plush (NWSL) emailed Dan Flynn (USSF), Sunil Gulati (USSF), and Lisa Levine (USSF) regarding Coaching Updates, and noted that the Sky Blue General Manager, Tony Novo, had asked about hiring Riley... After Riley was terminated, Plush and Levine discussed the need to inform Sky Blue about the reasons for Riley’s termination. Levine’s notes from the call reflect that a player had alleged sexual harassment against Riley, as well as the investigation’s conclusion that Riley had engaged in inappropriate and violated [a] directive to maintain professional distance from players. That day, Levine called Novo, and shared this confidential information. According to Levine’s notes, Novo stated the he thinks this

changes direction for us, and would not share this information beyond the club's ownership" (pages 69 & 70).

Plush recalls Tony Novo from Sky Blue contacting him about Riley. He believes that he told Novo that he needed to speak with some people before discussing Riley and he would get back to Novo. Once Riley was terminated, Plush then recalls meeting with Levine to discuss how to respond to Novo's interest in Riley. Plush recalls that he was in Levine's office when she made the call to Novo, and he and Levine both spoke to Novo although Levine led the conversation. Plush recalls that Levine made a reference to Novo about allegations against Riley of a sexual nature. Plush also recalls Novo commenting "this changes direction for us". From this point forward Plush recalls struggling with "threading the needle" of warning teams not to hire Riley yet being told by Levine they had to be careful not to divulge too much information about the Shim complaint or the Thorn Report. Plush recalls that the conclusion was that he could go so far as letting teams know there were issues with Riley at the Thorns, there was a reason he was no longer coaching, and the team should reach out to the Thorns to get their feedback on circumstances related to Riley's departure.

6. "On February 16, 2016, Plush emailed Gulati (USSF), Flynn (USSF) and Levine (USSF), stating, "Western New York will announce Paul Riley as Head Coach on Friday. Not good news" (pages 71 & 72),

Plush recalls having a conversation with Aaran Lines from WNY, and told him that there issues with Riley when left the Thorns and there is a reason he isn't coaching, Plush encouraged Lines to contact the Thorns to learn what occurred and to also bring this information to Lines' father-in-law who was also the team owner. Plush recalls having another call with Lines during which Lines told Plush that Wilkinson told him that Riley had been "put in a bad position by the player" and he "would hire him in a heartbeat". Plush's efforts to warn WNY clearly had little impact given the information subsequently shared by Thorns leadership.

7. Levine did not believe NWSL Commissioner Plush shared the 2015 Thorns Report externally. Which she stated was not the responsibility of the League or USSF (page 72).

As stated earlier, Plush did not possess a copy of the Thorns Report in the first place, and he had been directed by Levine not to disclose it to anyone as it was not the property of the League or USSF. Therefore, there was no possibility that he could have shared the report with anyone.

8. "Johnson also spoke to NWSL Commissioner Plush early in the process. According to Johnson, Plush (like Flynn) focused on an ongoing issue Riley had with referees that might lead to a "likely" suspension" (page 75).

Plush recalls that he was initially contacted by Johnson via text (screenshot attached hereto as Attachment B) which clearly shows that Johnson instigated the conversation about Riley and referees. His statement to the Yates team was clearly misleading in trying to create the impression that Plush avoided discussing Riley's issues with the Thorns and focusing the conversation on referees. Plush acknowledges that he did not bring up the Thorns issue to Johnson because he had already done so with Malik.

9. "Malik reached out to Plush for Merritt Paulson's number" and Malik stated he followed up with Plush to request a copy of the report that allegedly cleared Riley. Malik's best recollection was that Plush either demurred that he would look into it or declined to share the 2015 Thorns Report in light of confidentiality issues" (pages 75 & 76).

Plush recalls informing Malik that there were issues with Riley and his departure from the Thorns. Plush does not recall Malik asking him for a copy of the Thorns Report, but since he didn't have a copy, and in light of Levine's instructions that they could not share the report, he believes that had Malik asked him for a copy he would have referred him to Levine. In fact, in an October 6th, 2021, open letter (Attached hereto as Attachment A) Malik states:

"We were made aware of an investigation into Mr. Riley's behavior in 2015..."

Plush states that it was his communication with Malik about Riley that Malik is referencing in this open letter.

10. "On October 2, 2014, Bailey emailed Whisler an attachment with 'overall comments on the NWSL generally by WNT players as well as comments on your specific team.... Most notably, it includes additional detail about Dame's abuse. *The head coach was disrespectful to players and created a hostile work environment, He used a lot of language hat was inappropriate and abrasive and his coaching style in general was not good, making sexist, racist, abusive, and other prejudicial remarks at the players.*"

Plush states that he was hired in January of 2015 and therefore had no knowledge or involvement with the 2014 surveys or Bailey's communications with Whisler or anyone else.

11. "A few months later, on February 25, 2015, Bailey forwarded internally at NWSL (to Jeff Plush, Commissioner) her October 2, 2014 email to Whisler".

Plush states that he viewed this correspondence, regarding communications that took place four months prior to his becoming Commissioner, as Bailey bringing visibility to her communications with owners, but ultimately had nothing to do with Plush.

12. "It is unclear whether, and if so, how, the League and USSF addressed the negative player feedback calling out the 'hostile work environment' at CRS. Dan Flynn 'do[es] not believe [he] ever personally reviewed the surveys... he would have viewed these surveys as the NWSL's responsibility... In September 2015, NWSL Player Survey results again included feedback from multiple players referring to CRS and Dames as 'abusive' and calling attention to players' fear of

speaking out, noting that some players would not be as honest out of fear... On November 13th, 2015, Jeff Plush (NWSL Commissioner) emailed Jay Berhalter (USSF CCO), Jill Ellis (National Team Head Coach), and Dan Flynn (USSF CEO) the 2015 NWSL Player Survey Results. Plush stated, "The comments section provides the most specific information... some is quite disturbing..."

Plush states that the NWSL provided the Player Surveys and distributed the results to the various NWSL teams. Plush again points out that the teams were responsible for policing their coaches and other employees, and he as Commissioner had no authority to take any form of disciplinary or corrective action. Nonetheless, Plush states in those cases where the surveys contained substantive negative feedback, he would use the tools he had, primarily communicative skills, to speak with the owners of those teams in an effort to get them to recognize that they needed to take corrective action. Plush references specifically the case of Western New York, in which the surveys were very negative about Aaran Lines. Plush states that he had a productive conversation with the team owner which resulted in Lines being removed as Head Coach. Plush acknowledges that he was concerned about some of the 2015 surveys and felt it important to share that feedback with USSF officials.

I believe these examples comprise the extent of the references to Jeff Plush in the Yates' Report.

Summary:

The evidence and information compiled through this investigation suggest the following:

- 1. Jeff Plush, as NWSL Commissioner, lacked sufficient authority to impact League issues beyond routine day-to-day activities as evidenced by statements from himself, the unnamed team owner, the 2015 USSF official, and the Yates' Report itself**

- 2. When Jeff Plush received the Shim complaint, he immediately brought it to the attention of Lisa Levine, NWSL General Counsel, and communicated with her to coordinate a same day call to Merritt Paulson, the Thorns owner. Plush also quickly shared the complaint with Dan Flynn, Sunil Gulati, and Eric Gleason.**

- 3. Levine took control of the situation from that point forward.**

- 4. Plush never received or read the Thorn Report but was aware of its contents from discussions with Levine (discussed in detail in the final paragraph of page 3 of this report).**

- 5. Plush sought advice from Levine when he was contacted by Tony Novo at Sky Blue, which led to a phone call between Plush, Levine and Novo that ultimately convinced Novo to "change direction" and not hire Riley.**

- 6. Plush was hampered in his ability to communicate issues with Riley by Levine, who directed that they had to be careful with the information about the Shim complaint and the Thorn Report- in part because the Thorn Report was not the property of the USSF or NWSL.**

- 7. Plush warned Aaran Lines at WNY about Riley's issues with the Thorns.**

8. Plush warned Steve Malik at North Carolina about Riley's issues with the Thorns.

Pat McPherson, Fathom, Inc.

Attachment A

"We were made aware of an investigation into Mr. Riley's behavior in 2015 and were subsequently assured that he was in good standing," Malik wrote. "During his employment with the Courage, we had no knowledge of allegations of sexual harassment or coercion. When we learned of the horrific allegations in last week's reporting, we took those seriously and immediately terminated Mr. Riley."

Two former NWSL players, Sinead Farrelly and Mana Shim, came forward with the allegations of abuse, including sexual coercion, dating back more than a decade. The allegations were detailed last week in a story by The Athletic.

Riley has denied any inappropriate behavior.

He coached the NWSL's Portland Thorns in 2014 and 2015, when he was dismissed by the team, which had investigated him and shared its findings with the league. Riley then became coach of the Western New York Flash for a season before the team was sold and moved to North Carolina in 2017.

Riley's firing was the latest in a string of recent scandals involving the NWSL, the top women's professional soccer league in the United States.

Washington Spirit coach Richie Burke was fired last week for violations of the NWSL's antiharassment policy detailed in the Washington Post.

OL Reign coach Farid Benstiti was asked to resign in July after inappropriate comments made during practice. Racing Louisville coach Christy Holly was fired last month for reasons that have not been made public, and Gotham FC general manager Alyse LaHue was dismissed for violating the league's antiharassment policy. She has denied the allegations.

U.S. Soccer and FIFA have announced investigations into the league's handling of the Riley matter.

NWSL games set for last weekend were called off at the urging of the players' union. The league was set to resume play Wednesday night, with the Courage hosting Racing Louisville, Gotham FC playing the Spirit in Philadelphia, and the Thorns hosting the Houston Dash.

More Soccer Coverage:

- **Creditor: There's No Hiding for NWSL's Culpable Leadership**
- **NWSL Announces Systemic Changes Amid Riley Scandal**
- **Spirit Players Demand Baldwin Sell Stake in Club to Kang**



Attachment B

league/USSF meeting Wednesday.
Holy Crap. Sounds like USSF is
taking a stand.

Hectic week! A lot going on!

Jan 3, 2017, 6:29 AM

Is there any video available as it
relates to 3 Paul Riley incidents?
Interviewing him in Raleigh today.
Like to be educated as possible.



Jan 3, 2017, 7:56 AM

I will call you in a couple.

Jan 3, 2017, 10:19 AM

Confirmed that all BDO info
requested has been sent.

Ok thanks.
Call me when you can speak freely



iMessage



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