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June 23, 2023

Canadian Powerlifting Union
120-4913 Heritage Drive
Vernon, BC V1T7V5

Attention: [REDACTED], President
and [REDACTED], Vice-President of Programs

Sent via email to [REDACTED]
Sent via email to [REDACTED]

Dear Mr. [REDACTED] and Mr. [REDACTED]:

Re: April Hutchinson

My firm has been retained by April Hutchinson, a female powerlifter and registrant with your association (“CPU”), to respond to your letter of June 5, 2023, entitled “Official Notice of Appeal Decision”. As requested therein, I confirm Ms. Hutchinson’s acknowledgement that she has read and understood the *Code of Conduct and Ethics*.

I note that the subject line of the letter says, “Social Media Harassment”, something to which Ms. Hutchinson has been subjected herself, but has not engaged in against others. I will address the apparent “double standards” and hypocrisy below.

Background

Ms. Hutchinson began posting items on her social media accounts earlier this year, taking issue with the participation of male-born athletes in the women’s categories of competitive powerlifting. Since doing so, she has also been interviewed for various programs and articles, and has appeared alongside other elite female athletes across North America, facing similar concerns in their own sports.

Ms. Hutchinson has not engaged in any sort of “harassment”, nor has she named any individual, but she has made it clear that she does not agree with the CPU’s *Trans Inclusion Policy* which states that anyone can simply “self-identify” as being the opposite sex, and immediately compete as such.

Clearly, she is not the only one who thinks this wide-open policy is unreasonable—the International Powerlifting Federation (“IPF”), of which the CPU is a member, has a more rigorous policy designed to ensure a modicum of fairness to all competitors. The IPF requires transgender people to consistently identify as such for four years prior to competition, to have changed their

government documents, and to have reduced testosterone at levels of 2.4 nmol/litre (which is at the high end of the range for natal women) for at least a year prior to eligibility.

The CPU, however, has no such guidelines. A man could simply declare himself to be a woman and immediately qualify for the women's competition, taking top prize by virtue of his innate superior strength (approximately 50%+ greater physical capacity for powerlifting).

Your policy was made a mockery of in March this year when Team Canada coach Avi Silverberg did exactly that. He identified as a woman for the sole purpose of a CPU competition, as anyone might legally do under your policy, and shattered the existing record¹ held by a transwoman who, in turn, has outperformed natal females in 8 of 9 competitions entered in the women's category in the last 4 years, and now holds 4 out of 5 records in Alberta. This transwoman has mocked female competitors' inability to bench press, saying a male child can nearly press as much.²

It is actually the CPU that is offside in failing to at least align with the IPF's policy and failing to uphold fairness in sport – not April Hutchinson for drawing attention to it. Ms. Hutchinson and other female competitors are being discriminated against on the basis of their sex, contrary to the *Canadian Human Rights Act*. The policy has the adverse impact of placing a significant additional barrier to fair competition in women's events, with which men do not have to contend.

Criticism of this policy and its impacts is reasonable and necessary. The future of women's sports rests on women (and men) challenging the gender orthodoxy that essentially eliminates sex categories, permits those with all the physical advantages of having gone through male development and male puberty to compete against natal females, and claims that this is somehow fair³. This will spell the demise of competitive sports for women, along with related sponsorships, scholarships and opportunities. No wonder some brave women are speaking up!

Expressing concern about this certainly does not constitute "harassment", and it can in no way be considered "transphobic" (any more than having separate weight categories is "fatphobic"). Advocating for women's sex-based rights and protections is about fairness and equality, not hate, even if there are some practical issues to iron out that are uncomfortable to discuss. That is not accomplished, however, by punishing those who speak up and attempting to curtail their speech. Only frank dialogue and addressing issues head on will ensure the safety, fairness and enjoyment of the sport for all competitors – women and transgender people alike.

Additional commentary on the substantive issues (policy development and the science) has already been well-articulated by the International Consortium on Female Sport ("**ICFS**") and Ms.

¹ <https://dailycaller.com/2023/03/30/coward-bigot-man-smashes-powerlifting-record-protest-trans-inclusion-womens-sports-canada/>

² <https://thepostmillennial.com/watch-biological-male-record-holder-in-canadian-womens-powerlifting-complains-about-females-inability-to-lift-more-weight>

³ The science behind this is clear. Inherent male physiological advantages, such as increased muscle mass and strength, stronger bones, different skeletal structure, better adapted cardiorespiratory systems, etc. lead to superior athletic performance that cannot be reformatted by estrogen therapy:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9331831/>

Hutchinson in their letters of January 18⁴ and June 7, 2023, respectively. I will not repeat their contents, but am attaching them for ease of reference.

Aligning with the IPF would be an easy way to move toward fairness, as would adding separate categories for transgender competitors. With more categories of competition comes more inclusion and more fairness.

The Complaints

The primary purpose of this letter is to address the complaints under the *Code of Conduct and Ethics* (both by and against April Hutchinson). A brief summary of the process follows:

January 12, 2023: Ms. Hutchinson received a “formal warning” from her provincial organization, over some innocuous social media posts she made about saving women’s sports.

March 7, 2023: Ms. Hutchinson filed a complaint stating that CPU Referee [REDACTED] had publicly called her “transphobic” on social media. This would appear to be in violation of CPU’s *Social Media Use Policy* for representatives of the organization, as well as subsections 11(h) and (i) of the *Code of Conduct and Ethics*. Other than an initial acknowledgement of receipt, Ms. Hutchinson received no response to a complaint that was clearly a violation of the *Code* and was directed at her personally. In fact, you have largely ignored her communications, except when you have written to advise of disciplinary action against her. We expect the CPU to ensure that neither this referee, nor any of the officials involved in these complaints in any manner, are assigned to any competitions in which Ms. Hutchinson is competing. And we expect the courtesy of a proper response to this legitimate complaint.

March 12, 2023: Ms. Hutchinson received a letter from [REDACTED], on behalf of the CPU Board, advising of the complaint against her for “social media harassment”. Again, she had merely been posting slogans and commentary about fairness in women’s sports. Nothing derogatory was said about any individual, nor could any of the posts be described as “transphobic” (because women’s rights are not transphobic).

March 16, 2023: Ms. Hutchinson wrote to the Board again, advising of her concerns about her treatment for merely speaking up about fairness for women in the sport. She pointed out the inherent misogyny in permitting male-born athletes to use their competitive advantage to deny females the dignity of competing in their own category. Again, she was ignored.

April 2, 2023: She received a judgment which dismissed the “social media harassment” complaint against her, with the exception of a request that she not wear Team Canada clothing while protesting. She has agreed to abide by this request.

April 4, 2023: Ms. Hutchinson filed a complaint against transgender athlete, A.A., for repeatedly calling her hateful and anti-trans on social media. This individual even started a petition to have

⁴ <https://www.icfsport.org/post/letter-ontario-powerlifting-association>

her removed from Team Canada for her “anti-trans rhetoric”.⁵ No response to this complaint was received either.

May 30, 2023: “The Ethics Committee” (no names provided) sent a letter to Ms. Hutchinson advising that an appeal request of the decision on the “social media harassment” complaint had been made, and that the “Appeals Committee” (again, unnamed) had recommended a variance. Ms. Hutchinson was given no opportunity to provide a response, or to review the appeal submissions by the complainant(s) (which presumably would have been filed in accordance with section 3 of the *Policy on Appeals*). We do not know what the grounds for appeal were, or whether the submissions addressed those grounds. We do not know who sat on the Appeals Committee in judgment of Ms. Hutchinson (and will not be able to know if they turn up as a referee in a future competition she is in). The Committee provided no notice that it would re-deliberate the issues, nor any opportunity to Ms. Hutchinson to be heard or provide submissions. This entire process is contrary to principles of natural justice.

June 5, 2023: The “Official Notice of Appeal Decision” was sent to Ms. Hutchinson. The concerns she expressed about the process were not addressed. In addition to not wearing team clothing while speaking about transgender issues (which she had already agreed to), she was advised that she must not claim to be speaking on behalf of all women in the CPU (which she has never done), and that she must use pronouns requested by a transgender competitor or face the prospect of further disciplinary actions, including removal from competition.

I would note that the language of the Committee was inflammatory and biased, calling groups in support of women’s rights in sports, like ICFS and ICONS (Independent Council on Women’s Sports), which had amplified Ms. Hutchinson’s posts, “transphobic.” This word is thrown around anytime someone wishes to raise concerns about policies that have a real impact on others as a means of stifling debate and discussion. It is unprofessional and contrary to your own *Code of Conduct and Ethics*.

Hypocrisy, Bias and Double Standards

It appears that complaints only go one way in this organization: those who criticize the *Trans Inclusion Policy* are disciplined, and anyone who makes rude, harassing or defamatory comments directed at other individuals, while ostensibly supporting the policy, gets a pass.

Additionally, as outlined above, the CPU has used the complaints process to engage in or facilitate harassing behaviour designed to intimidate or prevent Ms. Hutchinson from speaking about her concerns and personal experiences. She has done nothing wrong. Pointing out the reality of the unfairness of biological males competing against biological females is not “transphobic.” No one suggests that transgender people should not be able to compete—Ms. Hutchinson has made it clear that she supports this. However, people have to be placed in the correct categories for weight, age—and sex—in order for competitions to be fair. And that is what sporting is all about—fair play. Rules based on common sense and basic biology are essential and must be adhered to

⁵ <https://www.change.org/p/remove-april-hutchinson-from-team-canada>

in order to ensure fairness. Otherwise, you might as well accept all comers and give everyone a prize.

We also question the neutrality of members of the Board making these disciplinary decisions. Two of them have posted on social media themselves that they “support translifters in Canadian Powerlifting.” This is contrary to section 8(1) of the CPU *Code of Conduct and Ethics*.

Under this provision, Directors and Committee Members have a special responsibility to “be independent and impartial and not be influenced by self-interest, outside pressure, expectation of reward, or fear of criticism”⁶. They have not fulfilled this obligation.

The individuals in these roles have: i) caved to pressure from transgender activists to eliminate fair competition for female athletes; ii) demonstrated their bias in social media posts in which they have picked a side; and iii) investigated and pursued spurious complaints in a harassing manner against a female athlete who has been outspoken about this unfairness, while ignoring her complaints of actual harassment, bias, a lack of transparency and discrimination.

This sort of behaviour from your leadership and representatives is unacceptable, and you will cause this organization more harm than good, for all athletes, by persisting in it. Your duty is to conduct yourselves openly, professionally, lawfully and in good faith in the best interest of the CPU.⁷ You have further duties to be fair, and to ensure that all individuals are given sufficient opportunity to express opinions, and that all opinions are given due consideration and weight.⁸ Respectfully, I suggest you ask yourselves whether you are upholding these principles.

Rather than calling people names and alleging “transphobia”, perhaps the CPU should address the root of the problem—that its policy does not align with IPF at a minimum, is manifestly unfair to female competitors, and is open to abuse (as Mr. Silverberg demonstrated). Rather than punishing female athletes who disagree, we suggest you simply align your policy now with IPF as a starting point. Everyone should have the opportunity to compete if they qualify to do so. But permitting natal male athletes who simply identify as women, and nothing more, to enter and dominate female sports categories must not be permitted.

Women Will Speak

You have issued additional demands to Ms. Hutchinson in your letter of June 5, including that she not speak on behalf of CPU female athletes, as she does not represent the entirety of the female population of CPU. You are correct that there are women in the organization who wish to encourage male-born athletes to compete against them; however, Ms. Hutchinson is certainly not alone in her concerns. She has not and will not purport to speak on behalf of “female athletes” generally; however, she will continue to maintain that she speaks for “many” female athletes, which is the truth. Many women are fearful of speaking out and are grateful for Ms. Hutchinson’s

⁶ CPU *Code of Conduct and Ethics*, section 8(e)

⁷ *Ibid*, section 8(d)

⁸ *Ibid*, sections 8(f) and (j).

bravery in this regard. Hers is not a “personal agenda” but is to the benefit of all female athletes, whether they appreciate it yet or not.

The “culture of silencing and fear” was described in the recent comprehensive analysis by Professor Leslie Howe about the impact of gender ideology on women’s sports⁹:

It is well documented that female athletes in sport, in particular, are disproportionately affected by discrimination, bullying, emotional and other abuse, lack of decision-making power and lack of athlete voice. In a policy arena that removes from female athletes the conceptual, legal and scientific framework and language necessary to address equal opportunities, non-discrimination, safeguarding and safe sport in relation to sex, a culture of silencing and fear is compounded. Further, conflating the legally and conceptually distinct protected characteristics of ‘sex’ and ‘gender identity and expression’, rather than disaggregating them as the distinct legally protected characteristics of biological ‘sex’, and ‘gender identity and expression’, makes discrimination against female athletes on the basis of sex, and any associated discrimination, bullying and emotional and other abuse, invisible and unsayable.

The CCES transgender guidelines demonstrate insufficient consideration of female athletes, and therefore institutionalises and normalises discrimination against, and maltreatment of, female athletes. This appears to be primarily because the CCES transgender guidelines do not recognise the legally protected human rights of female athletes as based on their biological sex. The survey completions and testimony of these female high-performance athletes reveal an unacceptable culture of silencing and fear for female high-performance athletes in Canada. Further, it appears that female athlete wellbeing and welfare has not even been considered by the CCES transgender guidelines.

Furthermore, your new requirement on pronoun usage is compelled speech and will not be acceded to. You have no authority to force another person to mouth particular words, particularly if they go against her conscience or require her to lie. Ms. Hutchinson may, as a matter of personal courtesy and respect, choose to use requested pronouns for any particular person, but she will not be forced to do so.

Next Steps

Understand that Ms. Hutchinson is not alone in her concerns. If you silence her, or remove her from the organization, more women will find their voices in her stead. Their futures as elite athletes, in this sport and all women’s sports, hang in the balance as more male-born athletes are given the green light to step in, without any guardrails, and compete in women’s categories immediately upon a self-declaration. People will not tolerate such manifest unfairness for long.

The fact is, many women are becoming angry with these discriminatory and misogynistic policies, and are getting organized. They will be suing sporting organizations like yours for discrimination.

⁹ <https://macdonaldlaurier.ca/wp-content/uploads/2023/02/Canadian-High-Performance-Female-Athletes-Voices-Project-Report-compressed.pdf>

You have an outstanding female athlete in April Hutchinson, who your organization should be proud to have representing it in international competitions. She has shown character and perseverance, and has overcome her own struggles with alcoholism and mental health issues by turning her focus to powerlifting. Her mental health matters too—transpeople are not the only people facing struggles. Ultimately, this is a matter of fairness. Remarkably, a transgender athlete in the CPU has publicly admitted that participation by transwomen in the female category is not necessarily fair.¹⁰ That hasn't stopped this person from calling Ms. Hutchinson a bigot for saying the same thing.

Given that membership in the CPU is the only realistic path to national and international competition in powerlifting, the organization must be held to a high standard of procedural fairness. We will not tolerate ongoing one-sided “disciplinary” processes designed to force my client to fall in line and stop speaking out on this issue. This causes her unnecessary stress and adversely impacts her ability to focus on her training.

I strongly encourage the board to start addressing these concerns by aligning its policy with the International Powerlifting Federation, and considering the expansion of its categories for competitions so that all athletes can enjoy fair play. If the unfairness and harassment persist, we will consider all legal options, which may include a claim for discrimination under the *Canadian Human Rights Act*. Attempts to punish Ms. Hutchinson for speaking up for fair, safe and non-discriminatory competitions will be treated as a reprisal under the *Act* and be subject to a claim for damages.

My client and I, and women across the country, will be watching to see if the CPU will do the right thing and protect its female athletes from discrimination on the basis of sex.

Sincerely,

LIBERTAS LAW



Lisa D.S. Bildy
Barrister & Solicitor

¹⁰ <https://www.instagram.com/p/Cnh4YosySwD/>