

WRITTEN STATEMENT OF KENNETH M. DUBERSTEIN
CHAIRMAN OF THE ETHICS OVERSIGHT COMMITTEE
OF THE UNITED STATES OLYMPIC COMMITTEE
BEFORE THE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
January 28, 2003

Mr. Chairman and Members of the Committee, thank you for inviting me to appear before you this afternoon.

I am proud of my years of volunteer service with the United States Olympic Committee and am proud of the Ethics Oversight Committee Report of January 10, 2003. Doing what is right is not always popular but we called them as we saw them and we did it unanimously! 10 for 10. No asterisks. No dissents. No motions to "revise and extend."

Some years ago, former USOC President Bill Hybl asked me to serve with former Senate Majority Leader George Mitchell on the ethics panel for the USOC. Later, in 1998, Senator Mitchell and I led a Special Commission of distinguished Americans to recommend reform of the IOC and the USOC in light of the bid selection scandal in Salt Lake City. This three-month volunteer assignment turned out to take almost two years, including testimony before this Committee and others. Our wide-ranging report, I believe resulted in fundamental and positive change in both organizations.

As an outgrowth of the Mitchell Commission, I was asked by former President Sandra Baldwin to chair the USOC's reconstituted Ethics Oversight Committee two years ago. It has not been a dull time, with her resignation, the vetting of her potential successors, overseeing the bid city selection process for 2012, the selection of Marty Mankamyer, and now the current matter.

In light of recent events, many have asked why I've been willing to serve as chairman. After all, it's not as if my life isn't chock full of wonderful, rewarding assignments. Why take on this thankless task? I'll admit I've asked myself the same question more than once recently.

It certainly isn't because of my athletic prowess! I may be old-fashioned but I believe deeply in the spirit of the Olympic Movement, the dreams of kids growing up to go for the gold and the bridges built between nations by healthy athletic competition. Anyone who has attended an Olympics or watched it on NBC can't help but be touched by the patriotism, the dedication of the athletes and the true joy of the competition.

Mr. Chairman, Members of the Committee, on this day devoted to the State of the Union, we all have a simple wish for the state of the USOC. We hope its leadership would be as strong and as principled as that of our President and the bipartisan leadership in Congress.

Now, let's turn specifically to the independent Ethics Committee and our report, the findings of distinguished attorney Fred Fielding, who led the investigation and the unanimous consensus of the 10 members of our panel.

The Ethics Committee action to review the alleged inappropriate conduct of the CEO Lloyd Ward was initiated at the request of President Marty Mankamyer by phone and Ethics Compliance Officer Pat Rodgers in writing in October, 2002. (See attached.) On October 24, after a telephonic committee meeting where we were briefed by Ethics Compliance

Office Rodgers, the full Ethics Oversight Committee authorized Mr. Rodgers to retain on the Committee's behalf outside legal representation to lead the independent investigation. The Committee unanimously agreed with Rodgers recommendation to retain Fred Fielding of Wiley, Rein & Fielding, a former counsel to the President of the United States, to conduct the investigation and report back to the Committee on his findings. Mr. Rodgers subsequently informed me that President Mankamyer felt Mr. Fielding was the right choice to do this investigation and the committee was authorized to retain Mr. Fielding.

Mr. Fielding was previously retained by the Ethics Oversight Committee last summer to vet the candidates for President, created by the resignation of Sandra Baldwin. He did his usual thorough evaluation, which I subsequently used as the basis for my presentation to the Executive Committee on July 29, 2002.

Our charge to Mr. Fielding was to get to the bottom of this. Leave no stone unturned. Let the chips fall wherever they may.

Mr. Fielding carried out his investigation with vigor and his usual great integrity. He asked for an expansion of the scope of the investigation when it became apparent to Mr. Fielding that other USOC individuals had an involvement in the Ward matter, including Ethics Officer Pat Rodgers. When it became apparent to Mr. Fielding that Mr. Rodgers was factually involved and that he and Mr. Ward had disagreed over Rodgers' work performance, the Ethics Officer, at the request of the entire and unanimous Committee, agreed not to further participate in the Committee's deliberations.

I also requested, with the encouragement of the entire committee that President Mankamyer not participate in any of the committee deliberations after our first meeting on

October 24. Mr. Rodgers had approved President Mankamyer's initial participation because the President was, I was told, an ex officio member of all committees. But members of the Committee, and I, and members of the Executive Committee, had received reports that she was discussing the review and the initial allegations with individuals outside of the Ethics Oversight Committee.

Upon completion of Mr. Fielding's interviews on November 21, he made a brief telephone report to me with Mr. Rodgers present on the phone line. On November 22, I requested that Mr. Fielding prepare a written summary of his fact gathering so that all members of the Committee could have complete access to his investigatory report.

I began receiving numerous phone messages from President Mankamyer urging me to hurry up with the Committee's report to the Executive Committee so that it could consider appropriate disciplinary action against Mr. Ward. I did not return these calls initially because of our earlier decision to go forward without the participation of President Mankamyer.

I spoke with President Mankamyer shortly before Christmas. At that time she told me that she had scheduled an Executive Committee meeting for January 13, 2003, at which time the Executive Committee would consider disciplinary action against Lloyd Ward and she expected the Ethics Committee would conclude its deliberations two weeks before then. I told her we would do our best but I could not promise that.

The Ethics Committee met by phone on December 23rd and reviewed Mr. Fielding's oral and written report. In addition to the review of Mr. Ward's conduct, the Ethics Oversight Committee now had to deal with the finding based on Mr. Fielding's oral and written report

and their own experience during the review that two individuals, Ethics Compliance Officer Patrick K. Rodgers and USOC President Marty Mankamyler, tried to use the ethics process to advance their own agenda.

We agreed as a Committee that Mr. Fielding and Mr. Thurgood Marshall, Jr., Vice Chairman of the Ethics Committee, would draft a proposed statement based on the USOC's code of ethics, citing Mr. Ward's conduct, creating the appearance of a conflict of interest, Mr. Ward's failure to make a written disclosure of the potential financial interest of his brother when he filed his annual disclosure in July, 2002, the failure of Mr. Rodgers to do timely compliance counseling of Mr. Ward which could have helped avoid all this, the Committee's concern about the leaks over our investigation and our commitment to ensuring the integrity and confidentiality of our committee's processes.

We did not exonerate Lloyd Ward, nor did we allow President Mankamyler's or Ethics Compliance Officer Rodgers' actions to go unnoticed.

We met for a final time by phone on January 8, 2003, during which we reviewed the draft document and went through each of the proposed findings one by one, line by line, word by word.

“After receiving and reviewing the attached Report from the Special Counsel, the USOC Code of Ethics, and further discussions, the Committee unanimously now concludes as follows:

Mr. Ward's conduct, in requesting a USOC employee to consider providing assistance to his brother in a commercial venture, created the appearance of a conflict of interest.

Mr. Ward failed to make a written disclosure of the potential financial interest of his brother when he filed his annual disclosure in July 2002.

There was a serious lack of sensitivity in the enforcement of the USOC Ethics Code in April 2002, when Mr. Ward's request to a USOC employee was first revealed, and which could have been easily corrected without a breach of the reporting requirements and/or further activity by Mr. Ward or any USOC employee, by the timely compliance counseling of Mr. Ward as to his ethical obligations and restrictions.

The Ethics Oversight Committee is gravely concerned about the recent public disclosures regarding the existence of its current investigation and the comments and speculations attributed to officials of the USOC in regard to the same. This conduct is contrary to the USOC Code of Ethics and reflects a purposeful disregard of the spirit and purpose of the ethics program and the Committee's charter. The Committee deeply resents any attempt to abuse its process and use that process for other purposes.

Only members of the Ethics Oversight Committee should participate in the business of the Committee or its meetings, unless participation by others is specifically requested by the Chair of the Committee; this would exclude ex officio members from participating in Committee business or meetings unless specifically requested by the Committee Chair.

The USOC Executive Committee and the USOC family are reminded that all matters pending before the Ethics Oversight Committee are confidential and should be maintained as such in order to protect the privacy of individuals involved and pursue the effectiveness of the ethics enforcement program."

We voted on the telephone unanimously to approve the report in its entirety. The report was signed by: Kenneth M. Duberstein, Chair; Thurgood Marshall, Jr., Vice Chair; Thomas McLarty, Vice Chair; Nicholaas Peterson, Athlete Representative; Reynd Quackenbush, Athlete Representative; Dan Knise; John T. Kuelbs; Edward Petry; Stephen D. Potts; and Malham Wakin.

We agreed that the revised draft would be re-circulated by Mr. Marshall the next day and he would await e-mails or telephone call changes or corrections until 10:00 a.m. January 10th, at which time I, as chairman, would call Lloyd Ward and each of the 6 officers of the Executive Committee (Marty Mankamyer, Frank Marshall, Bill Martin, Herman Frazier, Bill Stapleton and Paul George), read them the report and inform them we had decided that the report should speak for itself and that none of us would attend the Executive Committee meeting in Denver on January 13th. As a Committee we had agreed not to answer questions but simply to let everyone read our report.

No one mailed or called in any revisions whatsoever, so I began my phone calls at approximately 11:00 a.m., January 10th. I reached Lloyd Ward first and completed the final call about 4:30 p.m. EST when Marty Mankamyer returned my call (I had placed the call to her shortly after my conversation with Lloyd Ward). She thanked me for the Committee's good work and said we had done outstanding service to the USOC Olympic Movement. She expressed appreciation for the unanimity of our conclusions.

Our responsibilities were to determine the facts and arrive at conclusions based on those facts. Our understanding from President Mankamyer and Ethics Officer Rodgers was that

it was the role of the Executive Committee to decide on what action, if any, was to be taken on this entire matter, based on the findings and the confidential investigatory report by Fred Fielding and our report.

The Executive Committee in its meeting on January 13th voted 18-3 to approve our findings and conclusions and to express the Committee's appreciation for a job well done by the independent Ethic Oversight Committee.

As Chairman of the Ethics Oversight Committee, I supported every effort to maintain the integrity of the Ethics review. However two issues have been raised relative to my participation.

Lloyd Ward is on the Board of General Motors, one of the first clients of The Duberstein Group and a client now for over 13 years. While I knew somewhere in the back of my mind that he joined the Board in the last couple of years, it created no pressure on my decision making. It was not even considered. At no time did it occur to me that the work of my firm might create a personal conflict. We have no business dealings with the Board, only with management.

Parenthetically, the names of all our clients have always been a matter of public record.

General Motors, as you know, is a major sponsor of the USOC. When you think it through, GM does have an interest in the result of our work. Its interest is the integrity of the USOC. Period.

The second issue involves the fact that I did not sign and file USOC Volunteer Annual

Disclosure Certification in 2002.

The Committee should understand that the USOC Volunteer Annual Disclosure Certification is not a request to disclose assets and business relationships. It is simply a request to disclose known conflicts. I do not recall that I was asked to sign such a statement when George Mitchell and I headed up our review. Nor do I recall being asked to sign such a statement when I was made chair of the Ethics Oversight Committee. To this date, no one has ever personally talked to me about signing one.

A review of the e-mail files at The Duberstein Group has revealed that my assistant was e-mailed the one and one-half page form (see attached) in October of last year, about three months ago. It was not given to me. Had I received it, I would have checked the box indicating that I knew of no conflict and signed it.

This entire saga clearly demonstrates how much further the USOC must go to establish truly a sound governance structure with high ethical standards.

President Reagan years ago reminded me to always do the right thing. Don't back off from your principles. Stay true to your beliefs. People may try to push you one way or the other towards their interest, their desires. You must "stay the course" and do what you think is right.

I believe the Ethics Oversight Committee did the right thing. We stayed on course.

Even a thick-skinned former White House Chief of Staff has learned again the hard way that no good deed goes unpunished. If the Olympic flame burns brightly again in the

United States, as I believe it will, then it will have been well worth the price.