



## MASTERS SWIMMING ONTARIO

April 8, 2016

Dear Swimmers and MSO Club Managers,

Let me start by thanking the masters swimmers and MSO clubs who attended the April 2<sup>nd</sup> meeting which was held during the 2016 Ontario Provincial Masters Championship in Markham. The meeting was to follow up the discussion from the MSO AGM in December, 2015 during which there was a lengthy review of the events leading to the loss of MSO sanctioning and the ultimate resolution of that issue.

Some at the meeting were hearing this information for the first time. For the benefit of MSO members who could not attend either the AGM or the April 2<sup>nd</sup> meeting, we have prepared the attached brief summary of the events of last year and the results of our further investigation into the legal jurisdiction over the sanctioning of Ontario Masters events.

Our investigations, conducted by our external counsel, have concluded that Swimming Canada (SNC) and Swim Ontario (SO) have final legal authority over sanctioning of Ontario masters meets. In practice, the day-to-day detailed review and sanctioning of proposed meets is delegated and done by MSO.

Masters Swimming Canada (MSC) is working with SNC to avoid such conflicts in the future. MSO is actively providing input into this process.

At the meeting, there was also a lengthy follow-up discussion about new initiatives that are already underway or that members would like us to pursue to enhance and support Masters swimming in Ontario. Those are also briefly described in the attached summary and they are being seriously considered by your Board.

Please feel free to contact me, at the address below, if you have any follow up questions.

Yours sincerely,

Phil Rogers  
President of MSO

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## A Short Summary of the 2015 events affecting MSO sanctioning and of the April 2<sup>nd</sup> reporting meeting with members

When the Annual General Meeting of MSO was held in December 2015 in North York, there was a detailed discussion of the events surrounding the loss of MSO sanctioning in 2015 and the process that led to the restoration of sanctioning. There was considerable discussion among the members attending the AGM. The members were advised that the board had already initiated a review of the governance structure of Masters with the assistance of our external legal counsel. The members present asked the board to report back at a meeting held concurrently with the Ontario Provincial Championship in Markham. That reporting meeting was held Saturday, April 2<sup>nd</sup>. At that meeting, the board was asked to prepare and issue a short summary of the events of last year for the benefit of those who had not been able to attend either the AGM or the April 2 meeting. The summary below has been prepared in response to that request.

- In early 2015, MSO board members were hearing from many sources in the masters community and the broader swimming community that Swim Ontario (SO) had plans to abolish MSO, take over all its functions and directly operate masters swimming as one of its programs.
- Having received the annual invoice from SO in the amount of roughly \$7,000, the board of MSO decided to delay payment of such funds until MSO could meet directly with SO to determine whether or not it intended to take over Masters swimming. MSO requested such a meeting with SO but received no response.
- In late June without any further communication or notice from SO, MSO received an email from SO announcing that, due to non payment of the invoice, MSO was “not in good standing “ and had lost the right to hold sanctioned meets.
- MSO immediately contacted the President of SO and requested a face to face meeting. That meeting was held in Toronto in early August with the President of SO and two members of the MSO board. The substantive discussions and tone of that meeting went very well, in the view of the MSO attendees. It appeared at that time that the two parties had agreed on steps to work together to promote swimming as a sport for all ages. The MSO representatives left the meeting feeling that any misunderstandings that had developed between the two organizations would be resolved shortly. SO and MSO each agreed to take back to their respective boards the substance of the points agreed on at the meeting and then to reconvene to confirm that the issues were resolved.
- However, notwithstanding the apparent progress toward resolution, on September 29, the CEO of Swimming Canada, at the request of SO, issued a letter to all provincial swimming organizations across Canada announcing that all MSO clubs and members were suspended and that the MSC Masters Nationals Championship scheduled for May 20, 2016 was not a sanctioned event. This letter was issued without notice to either MSO or MSC and no copy of the letter was

- provided to either MSO or MSC. The masters community learned of the letter through postings on social media and a US swimming news website.
- The board of MSO immediately engaged in discussions with MSC to find a means to quickly resolve this matter and restore sanctioning. The competitive season and meets were scheduled to begin in October.
  - It was agreed that mediation talks would be held under the auspices and supervision of both MSC and Swim Canada to bring SO and MSO into a process to resolve the matter. The mediation conference calls were chaired by the Executive Director of MSC and the CEO of Swim Canada. Through this mediation process, sanctioning of all MSO events as well as the MSC Championships was restored and a letter announcing that outcome was issued by Swim Canada on October 21<sup>st</sup> 2015.
  - As reported at the April 2<sup>nd</sup> meeting, following these events, the MSO board initiated a thorough research of the legal structure in regard to governance of Masters swimming in Ontario and, in particular, the authority to sanction meets. After reviewing all the bylaws, statues, precedents and correspondence covering many years, the legal research conducted by our external legal counsel concluded that the authority to sanction meets in Ontario, including Masters meets, flows from FINA to Swim Canada to SO. Functionally, the day-to-day operations, the detailed review and approval of proposed Masters meets in Ontario had been long delegated to and carried out by MSO. However the ultimate authority to sanctioning or delegate that function remains with Swim Canada and SO. Furthermore, the legal research confirmed that, regardless of whether or not MSC or MSO were to restructure or reorganize in some manner, the final authority regarding sanctioning of masters events in Ontario would remain with Swim Canada and SO. The board of MSO would not be conducting itself reasonably or prudently if it were to pretend or assume that authority to sanction Masters meets rests solely with MSO. Any change or transfer of full and final sanctioning authority to either MSC or MSO would require negotiations and an agreement to that effect with Swim Canada.
  - The loss of sanctioning by MSO in 2015 and the threat to the status of the 2016 Canadian Masters Swimming Championships was as disturbing to MSC as it was to MSO. As noted above, MSC worked in conjunction with MSO through the mediation process that resulted in restoring sanctioning for MSO's meets. In response to these events, MSC has been working on a proposed agreement between MSC and Swim Canada to define the respective roles of MSC and Swim Canada and how they can effectively work together for the benefit of masters swimming. The intention is to define a mutually respectful relationship in which each will acknowledge and agree to the different roles and responsibilities of the two swimming organizations, MSC and Swim Canada. MSC is exclusively focussed on masters swimmers, some of whom compete though most do not. Swim Canada is largely focused on developing age group and high performance/elite swimmers. There is a draft MOU between the two parties under development. MSO has provided written and verbal comments to MSC indicating that changes to the draft are necessary. MSC is continuing to work with MSO and other masters groups across Canada (especially BC Masters) to develop an agreement that would serve the interests of all masters swimmers and the whole

swimming community. MSO will continue to be actively involved in the development of that agreement.

- Concurrently, as discussed in some detail at the April 2<sup>nd</sup> meeting, there are other projects that MSO is pursuing to enhance the services available to masters swimmers in Ontario. MSO has invested considerable time and effort to modernize and update our ability to communicate more effectively and more often with swimmers and clubs, and for them to communicate with us. We have implemented a new registration and meet database system that is providing integrated and up-to-date information for registered swimmers and clubs. The system allows for greater user-driven control and provides enhanced functionality to club swimmer management. In the case of swim meets, the system assists meet managers by providing registration functions, automatic swimmer verification and a meet management file at the conclusion of registration. We are coordinating our efforts on the development of this system with the other Provincial Masters Organizations and MSC. The MSO website is being rehabilitated as well and promises to become a much more useful and interactive entity than it is now.
- We will also be seeking ways to support the increasing swimmer demand for more open water events. This might include, for example, to accommodate swimmers who only want to do one or two such events per year. There will also be a National Masters Open Water Championship in Ontario this summer.