

DETERMINATION: DISCIPLINARY TRIBUNAL

THE RANGERS FOOTBALL CLUB plc and MR CRAIG WHYTE

NOTE OF REASONS

The Judicial Panel Disciplinary Tribunal Hearing took place over six days: 29 March, 6 April (Procedural Hearings) and a Principal Hearing on 17, 18, 20 and 23 April 2012 at Hampden Park, Glasgow. The Tribunal heard the conjoined hearings of the complaints against The Rangers Football Club plc ("Rangers FC") and Mr Craig Whyte.

The Compliance Officer Mr Vincent Lunny presented the Complaints on behalf of the Scottish Football Association. ("the Scottish FA")

The Rangers Football Club plc (in Administration) was represented by Mr Andrew Dickson, its Head of Football Administration; Mr Simon Shipperlee, of Messrs Duff and Phelps, the Administrators, and Mr Michael McLaughlin, Solicitor, of Biggart Baillie LLP.

Mr Craig Whyte was not in attendance, nor was he represented.

Having satisfied itself that Mr Whyte had been given fair notice of the proceedings and of the hearing of 17 April 2012, the Tribunal noted that neither he nor any representative had made recent contact in any way with the Tribunal Secretary, or the Scottish FA Compliance Officer. No written representation or response to the Notice of Complaint had been submitted after an earlier bare denial of the alleged breaches was intimated by his former solicitors (who had since intimated to the Panel that they were no longer acting), nor had any application been made to the Tribunal for the giving or leading of evidence, or making of submissions at the Principal Hearing by any of the electronic means provided for in Paragraph 10.2.3 of the Judicial Panel Protocol.

The Tribunal, having on 6 April 2012 made an order under Paragraph 8.5.7 of the Judicial Panel Protocol compelling the attendance of Mr Whyte at the hearing on 17 April 2012 to assist the Tribunal in its enquiries, and he having failed to do so, found Mr Whyte to be in breach of that order and accordingly in breach of Rule 105 of the Scottish FA Disciplinary Rules.

The Tribunal directed that the question of any sanction which might be applied should be continued to the conclusion of the proceedings before it. It noted that Mr Whyte had on 6 April 2012 also been found to be in breach of two orders of the Tribunal under the Judicial Panel Protocol made on 29 March 2012 and the question of any sanction which might be applied in respect of those matters was also continued to the conclusion of the proceedings.

The Tribunal, having regard to the desirability of progressing the disciplinary matters before it without further delay, and in the absence of any representation otherwise, and being satisfied in terms of Paragraph 8.3.1.8 of the Judicial Panel Protocol that Mr Whyte had been given fair notice of the proceedings and in particular the substantive hearing set for 17 April 2012, directed that notwithstanding Mr Whyte was absent, it would proceed to hear the evidence and submissions and proceed to Determinations in relation to the complaints against both Rangers FC and Mr Whyte.

The Tribunal noted Mr Whyte's failure to lodge a substantive written response to the Notice of Complaint as directed by the Tribunal on 29 March 2012, and noted that although it would be entitled in terms of Paragraph 10.5.2.1 to deny or restrict the extent to which Mr Whyte's bare denial was given effect in the hearing, for the avoidance of doubt, it would proceed on the basis that there was an absolute denial on his part of each element of the alleged breach of the rules in all its particulars.

The Tribunal directed that accordingly, and notwithstanding the fact that in its written responses Rangers FC in substantial measure admitted the factual averments and a number of the alleged breaches of the rules, under explanation and mitigation, the Tribunal would require to establish a clear factual basis for its Determination of both any alleged breaches and, if applicable, any sanction against either or both Rangers FC or Mr Whyte. There appeared to be a clear conflict in the position of Rangers FC and the deemed absolute denial by Mr Whyte upon which the Tribunal was proceeding. The commission and the circumstances of the alleged breaches would therefore require to be established by the leading of evidence before the Tribunal and the Tribunal would require to be satisfied in terms of Paragraph 10.9.1 that the alleged breaches were proven against the parties on the basis of a balance of probabilities test.

It noted in terms of Paragraph 10.5.2.2 of the Judicial Panel Protocol that the Tribunal was entitled (though not bound) to draw such inferences from Mr Whyte's non-compliance with its direction to lodge a substantive written response as it considered to be fair and reasonable, including adverse inferences.

A discussion in relation to the procedure to be adopted took place. It was agreed that the Compliance Officer Mr Lunny would lead evidence *ex parte* by submission and reference to documentary material but would lead no witnesses, and would invite the Tribunal to accept the evidence in that form as provided in the Judicial Panel Protocol. Mr McLaughlin for Rangers FC, standing its position on the complaints contained in the written response previously submitted had neither issues with that proposal nor any other objection to the procedure which would be adopted. An opportunity would then be afforded to Rangers FC to lead evidence and make submissions as Mr McLaughlin on its behalf saw fit. Mr McLaughlin intimated that he would be likely to lead evidence from four witnesses previously intimated to the Compliance Officer and the Tribunal in terms of the Judicial Panel Protocol.

The Tribunal indicated that it would deal with the issues of Determination of the establishment of any alleged breach of the rules and if appropriate any applicable sanction separately. Any submission or issue in relation to sanction which might attach to any established breach would be dealt with after a Determination on the breach question.

With the consent of parties, the Tribunal Secretary was authorised to record the proceedings electronically but solely for the purpose of supporting her own detailed written notes. Parties indicated that it was understood that no transcription should be anticipated or was intended nor were the recordings to be used for any other purpose. Like all materials they would remain confidential.

There were no preliminary objections to the Notices of Complaint, or procedures, nor were there any other preliminary matters raised by parties.

The Notices of Complaint were as follows:

1 Notice of Complaint against Rangers FC

From 6th May 2011 to 6th March 2012

- (1) Disciplinary Rule 1 (By breaching or failing to comply with Articles 5.1(b) and 10.2(g) of the Scottish FA's Articles of Association by failing to disclose to the Scottish FA the fact that Craig Whyte, Director of Rangers FC, was disqualified to act as a director on 13th June 2000 for a period of seven years, pursuant to the Company Directors' Disqualification Act 1986 ("the said disqualification"));
and/

and

(2) Disciplinary Rule 2 (By failing to procure that one of Rangers FC's officials, namely Craig Whyte, Director, acted in accordance with Disciplinary Rule 1 by failing to disclose to the Scottish FA his said disqualification);

and

(3) Disciplinary Rule 14 (By suffering an insolvency event on 14th February 2012);

and

(4) Disciplinary Rule 66 (Bringing the game into disrepute: by failing to disclose, or by failing to procure the disclosure, to the Scottish FA of the said disqualification of Craig Whyte; by failing to comply with the rules of the PLUS Stock Exchange by failing to disclose to PLUS Stock Exchange the said disqualification of Craig Whyte; by failing to lodge Annual Accounts by 31st December 2011, pursuant to Section 447 of the Companies Act 2006; by failing to hold an Annual General Meeting by 1st January 2012, pursuant to Section 336 of the Companies Act 2006; by the non-payment to Her Majesty's Revenue and Customs of Pay As You Earn tax payments and National Insurance Contributions for employees of Rangers FC and Value Added Tax; and by failing to pay to Dunfermline AFC by 21st February 2012, monies due to them for the Scottish Premier League match played on 11th February 2012, pursuant to Rule C14.5 of the Rules of the Scottish Premier League);

and

(5) Disciplinary Rule 71 (By not acting in the best interests of Association Football by failing to pay to Dunfermline AFC by 21st February 2012, monies due to them for the Scottish Premier League match played on 11th February 2012, pursuant to Rule C14.5 of the Rules of the Scottish Premier League.)

2 Notice of Complaint against Rangers FC

5th February 2012

(1) Disciplinary Rule 325 (By failing to pay to Dundee United FC, on the day of the above match, monies due under Rule 46(c)(3) and (e) of the Scottish FA's Cup Competition Rules; being Dundee United FC's share of receipts for the above match.)

and

(2) Disciplinary Rule 325 (By failing to pay to the ScottishFA, within three days of the above match, monies due under Rule 46(c)(1) of the Scottish FA's Cup Competition Rules; being the Scottish FA's levy on admission charges for the above match.)

Notice of Complaint against Mr Craig Whyte

From 6th May 2011 to 6th March 2012

(1) Disciplinary Rule 66 (Bringing the game into disrepute: by failing to disclose to the Scottish FA the fact that you were disqualified as a director on 13th June 2000 for a period of seven years, pursuant to the Company Directors' Disqualification Act 1986 ("the said disqualification"); by failing to comply with the rules of the PLUS Stock Exchange by failing to disclose to PLUS Stock Exchange the said disqualification; by failing to lodge Annual Accounts by 31st December 2011, pursuant to Section 447 of the Companies Act 2006; by failing to hold an Annual General Meeting by 1st January 2012, pursuant to Section 336 of the Companies Act 2006; by the non-payment to Her Majesty's Revenue and Customs of Pay As You Earn tax payments and National Insurance Contributions for employees of Rangers FC and Value Added Tax; and by failing to pay to Dunfermline AFC by 21st February 2012, monies due to them for the Scottish Premier League match played on 11th February 2012, pursuant to Rule C14.5 of the Rules of the Scottish Premier League);

and

(2) Disciplinary Rule 71 (By not acting in the best interests of Association Football by failing to pay to Dunfermline AFC by 21st February 2012, monies due to them for the Scottish Premier League match played on 11th February 2012, pursuant to Rule C14.5 of the Rules of the Scottish Premier League.)

The Tribunal heard evidence and submissions and thereafter considered all available evidence and legal issues before making its Determinations.

In relation to the Notices of Complaint against Rangers FC the Tribunal made the following Determination.

First Complaint

1 The Tribunal held that it was not proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 1 as specified in the complaint.

2 The Tribunal held that it was proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 2 as specified in the complaint.

3 The Tribunal held that it was proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 14 as specified in the complaint.

4 The Tribunal held that it was proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 66 as specified in the complaint (subject to deletion of the sixth element).

5 The Tribunal held that it was proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 71 as specified in the complaint.

Second Complaint

1 The Tribunal held that it was proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 325 as specified in the complaint.

2 The Tribunal held that it was proven upon a balance of probabilities that Rangers FC were in breach of Disciplinary Rule 325 as specified in the complaint.

In relation to the Notice of Complaint against Mr Craig Whyte the Tribunal made the following Determination.

1 The Tribunal held that it was proven upon a balance of probabilities that Mr Craig Whyte was in breach of Disciplinary Rule 66 as specified in the complaint.

2 The Tribunal held that it was not proven upon a balance of probabilities that Mr Craig Whyte was in breach of Disciplinary Rule 71 as specified in the complaint.

The Tribunal, in respect that it found the breaches of the said rules by Rangers FC established, imposed the following sanctions on Rangers FC:

First Complaint

1 Breach of Disciplinary Rule 1: Not Proven

2 Breach of Disciplinary Rule 2: Proven

A fine of £10,000 payable to the Scottish FA within twelve months.

3 Breach of Disciplinary Rule 14: Proven

A fine of £50,000 payable to the Scottish FA within twelve months.

4 Breach of Disciplinary Rule 66: Proven (subject to deletion of the sixth element)

A fine of £100,000 payable to the Scottish FA within twelve months.

In addition, the Tribunal imposed a prohibition in terms of Articles 94.1 and 95 of the Articles of Association, prohibiting Rangers FC for a period of 12 months from the date of Determination from seeking registration with the Scottish FA of any player not currently with the club, excluding any player under the age of 18 years.

5 Breach of Disciplinary Rule 71: Proven

The Tribunal imposed a censure.

Second Complaint

1 Breach of Disciplinary Rule 325: Proven

The Tribunal imposed a censure.

2 Breach of Disciplinary Rule 325; Proven

The Tribunal imposed a censure.

The Tribunal, in respect that it found the breach of the said rule by Mr Craig Whyte established, imposed the following sanctions on Mr Craig Whyte

1 Breach of Disciplinary Rule 66: Proven

A fine of £50,000 payable to the Scottish FA within thirty days together with interest thereon at the rate of 4% over the base lending rate of the Bank of Scotland plc from the date of this Determination until paid as provided for in Paragraph 11.5 of the Judicial Panel Protocol.

Further in terms of Article 94(1) and Article 95 of the Articles of Association of the Scottish FA Mr Craig Whyte was expelled for life from any involvement in the administration of a football club or participation in the sport of Association Football in Scotland.

In accordance with the consent of the Members of the Scottish FA including Rangers FC and the deemed consent of Mr Craig Whyte as an Associated Person, as provided in Paragraph 11.5 of the Judicial Panel Protocol, this Determination of the Judicial Panel Disciplinary Tribunal dated 23 April 2012 was ordered to be registered in the Books of Council and Session for preservation and execution.

The Tribunal, in respect that it had found Mr Craig Whyte to be in breach of its orders dated 29 March 2012 and 6 April 2012, imposed the following additional sanctions on Mr Craig Whyte:

1 Failure to obtemper a Tribunal Direction by order dated 29 March 2012 to submit a substantive written response to the Notice of Complaint no later than 4 April 2012:

A fine of £50,000 payable to the Scottish FA within thirty days together with interest thereon at the rate of 4% over the base lending rate of the Bank of Scotland plc from the date of this Determination until paid as provided for in Paragraph 11.5 of the Judicial Panel Protocol.

In accordance with the consent of the Members of the Scottish FA including Rangers FC and the deemed consent of Mr Craig Whyte as an Associated Person, as provided in Paragraph 11.5 of the Judicial Panel Protocol this Determination of the Judicial Panel Disciplinary Tribunal dated 23 April 2012 was ordered to be registered in the Books of Council and Session for preservation and execution.

2 Failure to obtemper a Tribunal Direction by order dated 29 March 2012 compelling him to attend the Disciplinary Hearing on 6 April 2012 to assist the Tribunal in its enquiries:

A fine of £50,000 payable to the Scottish FA within thirty days together with interest thereon at the rate of 4% over the base lending rate of the Bank of Scotland plc from the date of this Determination until paid as provided for in Paragraph 11.5 of the Judicial Panel Protocol.

In accordance with the consent of the Members of the Scottish FA including Rangers FC and the deemed consent of Mr Craig Whyte as an Associated Person, as provided in Paragraph 11.5 of the Judicial Panel Protocol this Determination of the Judicial Panel Disciplinary Tribunal dated 23 April 2012 was ordered to be registered in the Books of Council and Session for preservation and execution.

3 Failure to obtemper a Tribunal Direction compelling him to attend the Disciplinary Hearing on 17 April 2012 to assist the Tribunal in its enquiries:

A fine of £50,000 payable to the Scottish FA within thirty days together with interest thereon at the rate of 4% over the base lending rate of the Bank of Scotland plc from the date of this Determination until paid as provided for in Paragraph 11.5 of the Judicial Panel Protocol

In accordance with the consent of the Members of the Scottish FA including Rangers FC and the deemed consent of Mr Craig Whyte as an Associated Person, as provided in Paragraph 11.5 of the Judicial Panel Protocol this Determination of the Judicial Panel Disciplinary Tribunal dated 23 April 2012 was ordered to be registered in the Books of Council and Session for preservation and execution.

Note: The Register of Deeds of the Court of Session

The formal title for the Register of Deeds is the Books of Council and Session. The series commenced in 1554 and was based at Parliament House in Edinburgh. It is now held in the National Archives of Scotland. The register contains official copies of deeds presented to the Court of Session, the highest civil court in Scotland. The full range of deeds is recorded there. The Register of Deeds is a voluntary register. By registering a deed at the Court of Session, the obligation contained in the deed has the force of a decree of court.

Preliminary observations

The Judicial Panel Disciplinary Hearing was constituted in terms of the Scottish Football Association Judicial Panel Protocol which was agreed and adopted unanimously by all member clubs of the Scottish FA in general meeting. It came into effect on 7 June 2011.

The Articles of Association of the Scottish FA provide:

“Article 5:

5.1 Obligations of Members

All members shall:

- (a) observe the principles of loyalty, integrity and sportsmanship in accordance with the rules of fair play;
- (b) be subject to and shall comply with these Articles and any statutes, regulations, directives, codes, decisions and International Match Calendar promulgated by the Board, the Professional Game Board, the Judicial Panel, a Committee or sub-committee, FIFA, UEFA or the court of Arbitration for Sport;
- (c) recognise and submit to the jurisdiction of the Court of Arbitration for Sport as specified in the relevant provisions of the FIFA Statutes and the UEFA Statutes;
- (d) respect the Laws of the Game; and
- (e) refrain from engaging in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010.

5.2 Each member shall procure that its officials, its Team Officials and its players, and shall use its best endeavours to procure that its Team Staff and its employees (other than its officials, its Team Officials or players):

- (a) observe the principles of loyalty, integrity and sportsmanship in accordance with the rules of fair play;
- (b) observe and submit to and comply with these Articles and the statutes, regulations, directives, codes, decisions and International Match Calendar promulgated by the Board, the Professional Game Board, and the Judicial Panel, a Committee or sub-committee, FIFA, UEFA or the Court of Arbitration for Sport;

(c) recognise and submit to the jurisdiction of the Court of Arbitration for Sport as specified in the provisions of the FIFA statutes and the UEFA Statutes;

(d) observe the Laws of the Game; and

(e) refrain from engaging in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010.

5.3 Each member shall procure that its Team Officials complete, sign and submit to the Scottish FA the Team Official Form prior to taking up his post. Until a completed Team Official Form has been submitted to the Scottish FA, the Team Official in question will not be eligible to gain access to the technical area of any match involving the club by which he has been appointed.”

The Judicial Panel Protocol at Paragraph 1.4 provides:

“1.4 Tribunals appointed from the Judicial Panel are empowered to consider and determine all cases brought to it arising under the Articles and this Protocol, including the Disciplinary Rules.

1.4.1 Where the Articles or any other rule, regulation or agreement confer jurisdiction over a matter arising out of Association Football, including in respect of the Disciplinary Rules, or the Judicial Panel and/or any Tribunal appointed therefrom, all members and/or any body or person who is involved in Association Football in Scotland under the auspices of or pursuant to a contract with such members, including without prejudice to the foregoing generality, any recognised football body, a club, official, Team Official, Team Staff, player, referee, Players' Agent or other person under the jurisdiction of the Scottish FA ("an Associated Person") shall be taken to have agreed that such a matter shall be heard and resolved in accordance with this Protocol and its annexes, as may be amended from time to time ("the Protocol").

1.4.2 The fact of membership of the Scottish FA shall constitute an agreement by a member that it, and/or any Associated Person, is subject to the jurisdiction of the Judicial Panel and Tribunals appointed therefrom arising from the Articles, the Protocol and in respect of the Disciplinary Rules. The agreement by an Associated Person, Council member or any other body or person who is involved in Association Football in Scotland to observe, submit to and comply with the Articles also constitutes submission to the jurisdiction of the Scottish FA, the Judicial Panel and Tribunals appointed therefrom arising from the Articles, the Protocol and the Disciplinary Rules.”

Rangers FC is a member of the Scottish FA and in accordance with Article 5.1 and Paragraph 1.4 of the Judicial Panel Protocol is subject to the Articles and the jurisdiction of the Judicial Panel.

Mr Craig Whyte, as a director of Rangers FC is an official and thus an “Associated Person” in terms of Paragraph 1.4 of the Judicial Panel Protocol and he is therefore subject to the Articles and the jurisdiction of the Judicial Panel.

The alleged breaches of the rules on the principal complaint against Rangers FC and on the complaint against Mr Craig Whyte are specified as breaches being committed between 6th May 2011 and 6th March 2012. To the extent that the Tribunal heard evidence in relation to circumstances and events prior to 6th May 2011, such evidence and submissions were taken into account by the Tribunal only by way of background and context and no conduct on the part of Rangers FC or Mr Craig Whyte prior to 6th May 2011 formed the subject matter of any of the alleged breaches of the rules.

The Tribunal was mindful that its task was the determination of the alleged breaches of the Disciplinary Rules by Rangers FC and Mr Craig Whyte set out in the Notices of Complaint before it. It was mindful that it was not within the remit of the Judicial Panel Disciplinary Tribunal to carry out any wider ranging enquiry into matters affecting Rangers FC and Mr Craig Whyte which fell outwith the Notices of Complaint, or the time period involved, whether before or after the period in question.

Any evidence which was provided to the Tribunal relative to historic matters outside its specific task was evaluated strictly in the context of assisting in the determination of whether the complaints against Rangers FC and Mr Craig Whyte for alleged breaches of the Disciplinary Rules on or between the dates specified had been proven on the balance of probabilities.

The Tribunal did not engage in an exercise of financial analysis and attribution of blame or praise for any business issue in which Rangers FC and associated parties may have found itself or themselves involved, before, during or after the dates specified in the complaints. The Tribunal equally did not engage in an exercise of speculation as to future events involving Rangers FC, Mr Craig Whyte or others or any other matters which were not matters specified in the complaints before it. It was clear in its exercise of determination of the matters before it that it was not entitled in any respect to hypothesise in regard to matters upon which no evidence had been led before it or upon matters which neither the Compliance Officer, nor the solicitor acting for Rangers FC, both very experienced and very able legal practitioners, had addressed it. To take such extraneous matters into account in any way would have involved the Tribunal engaging in an exercise of speculation without any evidential basis or assistance from the parties which was entirely improper, entirely outwith the terms of the complaints before it, entirely beyond its remit and entirely outwith the powers vested in it by the Judicial Panel Protocol to which, *inter alia*, Rangers FC and Mr Craig Whyte, were subject.

Findings in Fact

The Tribunal , having heard evidence and submissions of the Parties, made the following findings in fact:

1. That The Rangers Football Club plc (“Rangers FC”) is a public limited company and is a full member of the Scottish Football Association (“the Scottish FA”).
2. That Rangers FC and its directors are required to lodge Annual Accounts on behalf of the company with the Registrar at Companies House, Edinburgh and to hold an Annual General Meeting, both events being required to occur within time limits imposed by the Companies Act 2006. The Annual Accounts in 2011 required to be lodged by 31st December 2011 in terms of section 447 of the Companies Act 2006 and the Annual General Meeting required to be held by 1st January 2012 in terms of section 336 of the Companies Act 2006.
3. That Rangers FC was a member of the PLUS Stock Exchange during the period from 6 May 2011 until 6 March 2012 and remains a member. As a public limited company its shares are available for trading by the public on that stock exchange and its financial and business circumstances are matters of importance to members of the public in any trading. The PLUS Stock Exchange as a regulatory authority operates within a set of rules to which Rangers FC and its directors are subject, which includes a requirement that members and directors disclose to the PLUS Stock Exchange any matters of significance in their corporate governance arrangements, including the fact that a director of any member company has at any time been disqualified as a director pursuant to the Company Directors’ Disqualification Act 1986. The said rules are intended to provide transparency in the corporate governance of members and are intended to protect the public. A failure to make a disclosure of a disqualification of a director of a member is a breach of the PLUS Stock Exchange rules and results in the member being liable to sanction.
4. That during the relevant period Rangers FC was an employer under a statutory duty to make deductions of Income Tax at source from the wages and salaries of its employees under the Pay As You Earn scheme and to remit said Income Tax so deducted to Her Majesty’s Revenue and Customs (“HMRC”) by the 19th day of each calendar month.

5. That during the relevant period Rangers FC as an employer was under a statutory duty to make deductions from the wages and salaries of its employees in respect of National Insurance Contributions and to remit such contributions along with any employer's National Insurance Contributions to HMRC by the 19th day of each calendar month.
6. That during the period from 6 May 2011 until 6 March 2012 Rangers FC was registered with HMRC for Value Added Tax purposes. It was required to lodge quarterly VAT returns and payments with HMRC at the end of August, November, February and May in any year.
7. That the Board of Directors of Rangers FC immediately prior to 6 May 2011 comprised Messrs Alastair Johnston (Chairman), Martin Bain (Chief Operating Officer and Executive Director) Donald McIntyre (Executive Finance Director), David King, Paul Murray, Donald Muir, Michael McGill, John McClelland, and John Greig (all Non Executive Directors).
8. That prior to 6 May 2011 the Board of Directors of Rangers FC was provided with management accounts and information on a regular basis and it would meet to discuss and agree policy and strategic matters, and discuss implementation and general management issues. The frequency of these Board meetings varied but there would normally be at least one formal meeting of the directors each quarter.
9. That for some years prior to 6 May 2011 Mr Ken Olverman, C.A., had held the position of Financial Controller of Rangers FC and he continues to do so. Prior to 6 May 2011 Mr Olverman as Financial Controller had responsibility for the day to day management and operation of the finance department of Rangers FC. Prior to 6 May 2011, when signing along with an Executive Director he had a joint bank instrument signing authority up to a value of £10,000. His role would include the overseeing of payment of bills for all goods and services provided to Rangers FC. His role would include the overseeing of the preparation of any invoices raised by Rangers FC in respect of any sale or service provided to a third party. His role would include the preparation of management accounts and reports for the information of directors and departmental line managers. It would include the overseeing of the calculation of Income Tax and National Insurance Contributions deductions from wages and salaries of employees and employer's contributions and the preparation of payment instruments in respect of these sums in favour of HMRC. It would include the overseeing of the preparation of the quarterly VAT returns and payments and accountings and the preparation of payment instruments in respect of these sums. It would include making arrangements for the payments of sums payable to HMRC.

10. It would include the preparation with the auditors of Rangers FC of the annual accounts of Rangers FC which required to be lodged by the directors with Companies House in terms of section 447 of the Companies Act 2006 by 31 December in any year. It would include preparation of accounts and reports for the purposes of providing information to shareholders prior to holding the Annual General Meeting which required to be held each year prior to 1 January in terms of section 336 of the Companies Act 2006.
11. That during Mr Olverman's tenure as Financial Controller prior to 6 May 2011, (but subject to the matter stated at Fact Number 16 below,) all periodic returns and payments of PAYE Income Tax, National Insurance Contributions and VAT to HMRC were made on time and paid in full by Rangers FC. There was no default in Rangers FC's statutory obligations at any time. All payments were made as they fell due and at 6 May 2011 (subject to the matter stated at Fact Number 16 below) there were no outstanding payments due to be paid to HMRC in respect of PAYE Income Tax, National Insurance Contributions and Value Added Tax. The PAYE Income Tax deductions remitted to HMRC on a monthly basis up until August 2011 were usually of the order of £1,000,000 to £1,200,000.
12. That Mr Olverman also had responsibility for overseeing the recording of attendances at Rangers FC home games and the calculation of any member's levy from gate takings payable to the Scottish FA. He had responsibility for calculating gate receipts at Ibrox and the share of these which required to be remitted to the visiting teams in accordance with agreed conventions. He also had responsibility for the accounting and payment to other football clubs for the sale on their behalf of match tickets to supporters of Rangers FC for away games and for remittance to those other clubs of sums due, calculated according to agreed conventions.
13. That for some years commencing prior to 6 May 2011 Mr Andrew Dickson C.A. has been the Head of Football Administration of Rangers FC. His duties prior to 6 May 2011 included preparation of players contracts with players and their agents. His duties included representing Rangers FC and the Glasgow Football Association on various committees within the sport. His duties included all administrative responsibilities, and in particular he dealt with all football registration requirements and documentation which required lodging with the Scottish FA, the Scottish Premier League, UEFA and elsewhere. The role included preparation of the Official Return detailing the identities and personal details of all directors and officers of Rangers FC which required to be lodged with the Scottish FA each year prior to the new playing season and any amendment form which might become necessary on account of board or management changes occurring during the playing season.

Mr Dickson had carried out this role continuously and competently for many years and is highly experienced and knowledgeable about club, player, official, and ground registration and licensing matters. The appointment of any new director to the Board of Rangers FC was an appointment which required registration procedures to be completed and fell squarely within Mr Dickson's experience and remit. Such an appointment required to be intimated by the completion and lodging of an amendment form relative to the Rangers FC Official Return, specifying the appointment and lodging the director's details with the Scottish FA. The amendment form requires the director involved personally to sign a declaration, having regard to Article 10 of the Articles of Association of the Scottish FA, in relation to disclosure of any matter (emphasis added) which should be brought to the attention of the Scottish FA in order to allow it to satisfy itself that the director is a fit and proper person to be appointed to the position within the game. Rangers FC through its Secretary is required to sign and "confirm that the information supplied above is complete, true and accurate and that Articles 10, 13, 14 and 15 have been complied with".(sic)

14. That for many years prior to 6 May 2011 Mr John McClelland was a Non Executive Director of Rangers FC and he had previously been Chairman and Vice Chairman of the Board of Directors. He was well informed and experienced in business matters and well informed of the financial and business circumstances and history of Rangers FC prior to 6 May 2011. He was a close associate of Sir David Murray, a previous Chairman and majority shareholder through Murray International Holdings Limited..
15. That for some years prior to 6 May 2011 Rangers FC had been under financial stress. It had been heavily indebted to the Halifax Bank of Scotland ("HBOS"). It had granted securities to HBOS over its assets. At one stage Rangers FC owed HBOS well in excess of £30,000,000. That debt figure had since been substantially reduced. As at 6 May 2011 Rangers FC owed HBOS's business successors the Lloyds Banking Group plc ("Lloyds") approximately £18,000,000. The Board had agreed a financial plan with Lloyds which included the reduction of the debt to £17,000,000 in the course of the next year. Rangers FC was operating within very tight financial constraints and with little financial headroom but it had an agreed plan in place with Lloyds and was not under undue financial pressure from its bankers. There was no acute threat to its continuation in ordinary trading and operating circumstances.
16. That in addition to the debt due to Lloyds, Rangers FC had in the past entered into agreements with a company called Ticketus for the sale of season tickets for Ibrox Stadium. Essentially the arrangement was that Ticketus bought the season tickets for the forthcoming year at a discounted price from Rangers FC.

Rangers FC were then obliged to act as selling agents for Ticketus, to sell the season tickets to supporters and to pay the proceeds of sale to Ticketus. In essence the arrangement provided Rangers FC with an additional source of advance funding in the off season outside their arrangements with Lloyds, in the form of the sum paid to it by Ticketus for the advance ticket sales for the forthcoming season. Rangers FC then made repayment to Ticketus in the course of the following year. Rangers FC had operated this scheme with Ticketus since approximately 2009. The value of these transactions in previous years had been approximately £5,000,000 per annum.

17. That the majority shareholder of Rangers FC immediately prior to 6 May 2011 was Murray International Holdings Limited (“MIHL”) led by Sir David Murray, a former Chairman of the Board of Directors of Rangers FC. MIHL and the Murray Group of companies were also extremely heavily indebted to HBOS and then their successor bank, Lloyds. The debt due to Lloyds by Rangers FC at or about 6 May 2011 was of the order £18,000,000. Whilst the figure was uncertain, discussions prior to 6 May 2011 between Mr John McClelland and Sir David Murray in connection with the financial situation of Rangers FC and Sir David Murray’s shareholding had raised a suggestion of an overall group debt of the Murray Group to Lloyds being in the order of £700,000,000. The Murray Group was under very substantial pressure from Lloyds to reduce its overall indebtedness. The asset holdings of the Murray Group were predominantly in iron and steel, and in heritable property, and current market conditions were unfavourable to a profitable realisation of assets or the generation of funds from these sectors with which to reduce its indebtedness to Lloyds.
18. That for some time prior to 6 May 2011 Rangers FC had been in dispute with HMRC in relation to problems surrounding income tax from employees’ earnings. A financial vehicle entitled the Employee Benefit Trust (“EBT”) was in issue which had also become known in the public domain as “The Big Tax Case”. The matters involved in that specific dispute did not involve any financial activity or liabilities arising during the period between 6 May 2011 and 6 March 2012 but the potential impact of an adverse ruling on Rangers FC being delivered by the tax tribunal was a matter of public notice and debate both before and after 6 May 2011. The matter, which involved a very substantial sum of money was under consideration by the appropriate tax tribunal from whom a ruling was awaited. As at the date of the Judicial Panel Tribunal Hearing no ruling has been issued.
19. That some time prior to 6 May 2011 Sir David Murray had decided to sell the MIHL majority shareholding in Rangers FC. He entered into discussions with Mr Craig Whyte. Mr Craig Whyte had been introduced to Sir David Murray and he had represented to Sir David Murray that he was a person of substantial personal means and he claimed to have access to very substantial funds for the purposes of investment.

Sir David Murray was enthusiastic about pursuing an agreement to sell MIHL's shares and became increasingly keen to make a deal with Mr Craig Whyte which would allow him to realise the MIHL majority shareholding in Rangers FC and release substantial sums of cash, with a view to reducing his overall Murray Group indebtedness to Lloyds.

20. That on 13 June 2000 Mr Craig Whyte had been disqualified from being a director of a company for a period of seven years, pursuant to the Company Directors' Disqualification Act 1986.

21. That the issue of a potential sale of its shares and in particular a potential sale of its shares to Mr Craig Whyte became known to the Board of Directors in the course of 2010. The Board was provided with little or no information by either Sir David Murray or by Mr Craig Whyte as to Mr Craig Whyte's business background, his current financial standing or his personal financial history. A number of meetings were held with Mr Craig Whyte and a committee of the Board of Directors. A number of meetings took place between Mr Craig Whyte and certain individual directors of Rangers FC. In particular, meetings were held between Mr Craig Whyte and Mr Alastair Johnston (Chairman), Mr Martin Bain, Chief Operating Officer and Executive Director, and Mr John McClelland, a Non Executive Director. These meetings were arranged with Mr Craig Whyte by Mr Johnston, Mr Bain and Mr McClelland specifically with a view to attempting to discover more information about the potential purchaser of the majority shareholding in Rangers FC. In the course of the meetings little further information was obtained. Mr Craig Whyte made very little disclosure of his personal financial circumstances or of the affairs or circumstances of any of his business interests, past or present, and gave no information as to the source of his funding for any possible majority shareholding acquisition and working capital provision. The matter of a potentially adverse ruling in "the Big Tax Case" was discussed and Mr Craig Whyte represented to Mr McClelland that he would be prepared and able to meet any liability falling upon Rangers FC in that tax case up to a value of £15,000,000 from his own personal wealth. Despite the representations made by Mr Craig Whyte, the directors of Rangers FC were provided with no details or evidence of any financial matters or proof of funding or assets relating to Mr Craig Whyte or his companies. At Board level there was a marked division of opinion amongst the directors on the issue of the suitability of Mr Craig Whyte as a potential majority shareholder. A number of directors remained extremely concerned and extremely sceptical about his good faith, status and standing as a potential majority shareholder of Rangers FC. They had no evidence that he had sufficient funds to buy or run a football club such as Rangers FC. They remained very concerned about the absence of any form of verification as to his financial or business standing and status. Other directors took a less critical view.

22. One of the non executive directors of Rangers FC in the period prior to 6 May 2011 was Mr Donald Muir. In his conduct as a director of Rangers FC he substantially represented the interests of the Lloyds Banking Group plc. Through Mr Muir, the Board of Directors had been made aware that Lloyds were extremely enthusiastic about the potential purchase by Mr Craig Whyte of the MIHL majority shareholding. The Board of Directors were made aware by Mr Muir that Lloyds favoured the potential share acquisition by Mr Craig Whyte because they were anxious that in the process of that acquisition funds would be realised/invested to settle the debt of £18,000,000 owed by Rangers FC to Lloyds. The position favoured by Lloyds was that of external funding being introduced by Mr Craig Whyte, the MIHL share holding being acquired by Mr Craig Whyte, and, as part of the consideration involved, the Lloyds debt being assigned to Mr Craig Whyte's companies and then being repaid. In addition to the representations of Mr Muir made in favour of this approach being approved by the Board, the Board of Directors were also advised directly by officials of Lloyds that the potential shareholding being sold to Mr Craig Whyte was an outcome the bank favoured.
23. That a number of the directors of Rangers FC were very concerned about the situation which had arisen and the pressure being exerted upon the Board to approve and support a potential purchase of the majority shareholding by Mr Craig Whyte. A real and substantial concern existed as to the genuineness of his offer to purchase and as to his motives. A real and substantial concern existed as to the lack of information available about his history both personal and commercial and his apparent reluctance to divulge or provide any information which was requested. A real and substantial concern existed as to whether and from what source he could find and invest the very substantial funds which would be required in acquiring the majority shareholding, settling the debt of £18,000,000, meeting any potential liability arising in the "Big Tax Case", and establishing a sufficient fund of working capital to make Rangers FC financially viable.
24. That in the course of 2010 when the potential sale of the MIHL shareholding became a realistic possibility, in view of their concerns and in accordance with proper governance the Board of Directors of Rangers FC decided to establish an Independent Board Committee (the "IBC"). The objective of the IBC was to ensure any possible offer for the majority shareholding in Rangers FC was assessed not on the basis of benefit to purchaser and vendor but on its merits for the benefit of Rangers FC, its whole body of shareholders and all other stakeholders including supporters. Particular scrutiny was to be given to the capacity and the commitment of any purchaser to provide a stable and sustainable future for Rangers FC. A duty of the IBC was to make further enquiries into the background of any potential purchaser with a view to ascertaining with greater certainty the likelihood of injection of sufficient working capital post acquisition to ensure the financial stability and wellbeing of Rangers FC.

The IBC was not established as a response to the potential sale of the majority shareholding to Mr Craig Whyte. It was formed in response to the potential sale of the major shareholding to any purchaser. The proposed purchase of the majority shareholding by Mr Craig Whyte fell clearly within the remit of the IBC. The IBC comprised Alastair Johnston (Chairman of the Board of Directors), Martin Bain (Chief Operating Officer and Executive Director), Donald McIntyre (Executive Finance Director) John McClelland (Non-Executive Director), and John Greig (Non- Executive Director).

25. That in the course of a number of meetings in 2010 and 2011 with Mr Craig Whyte both as a committee and as individual directors, and despite close questioning of Mr Craig Whyte and his adviser Mr Gary Withey, Solicitor, of Collyer Bristow, London, the IBC remained entirely uninformed and uncertain of the financial and personal standing matters with which they were concerned. Mr Craig Whyte disclosed little or no information. Financial models for working capital requirements prepared by the finance officers and accountants of Rangers FC were repeatedly disputed and rejected by Mr Craig Whyte and Mr Withey. Mr Craig Whyte produced his own working capital projections which were wholly at variance with those of Rangers FC. The IBC was very concerned that despite their making all relevant confidential financial data available under secure conditions for the examination and scrutiny of Mr Craig Whyte and his advisers in a process of due diligence in their purchase consideration, almost no advantage was taken of this facility and hardly any enquiry or scrutiny of the detailed and confidential financial information about Rangers FC was carried out by or on behalf of Mr Craig Whyte or any of his companies. This failure to carry out ordinary “due diligence” enquiries served to increase the substantial concern felt by the IBC for the motives, the genuineness, the financial viability and the propriety of the proposed purchase by Mr Craig Whyte.
26. That the concerns of some members of the IBC were exacerbated in every respect upon the commissioning, by an external third party, of a private investigation into the business, financial and personal background of Mr Craig Whyte. In March 2010 a substantial and detailed report was prepared by investigators for the purposes of that third party but a copy was provided to the Chief Operating Officer Mr Martin Bain. He was very concerned at the information it contained. Mr Bain did not disclose the report or its detailed contents to all of the IBC. Mr Bain disclosed it and its contents to the Chairman Mr Alastair Johnston. The information contained in the report disclosed Mr Craig Whyte had previously been involved and continued to be involved in a large number of companies. Many of these companies had been established and then wound up soon after as being insolvent. A number of the companies left substantial debts unpaid and in particular with substantial debts arising from unpaid tax liabilities. If the report were accurate, the unpaid tax liabilities arising from income tax and corporation tax from the various dissolved companies ran substantially into six figure sums.

The report provided no explanation for the acquisition through any of his companies of any personal wealth by Mr Craig Whyte. The report contained no reference to Mr Craig Whyte having on 13 June 2000 been disqualified for a period of seven years from being a director of any company, pursuant to the Company Directors' Disqualification Act 1986.

27. That Mr Bain was extremely concerned about the standing and suitability of Mr Craig Whyte and his motives in purchasing the majority shareholding in Rangers FC. Mr Bain enjoyed a close working relationship with Sir David Murray. He had been appointed by Sir David Murray to his present role. Knowing Sir David Murray's personal and individual approach to business matters he was apprehensive about raising his concerns with him and considered that there might be personal repercussions. He took the view that once he "crossed the line" there would be no way back. Nevertheless he considered that it was appropriate to meet with Sir David Murray privately to express and if necessary emphasise his concerns at the proposed sale of the MIHL shares to Mr Craig Whyte. He met with Sir David Murray in March 2011. He set out at length the matters which had been explored in the IBC and directors personal meetings with Mr Whyte and the lack of information which had been obtained. He expressed concern at the lack of transparency and the lack of due diligence being carried out both by and towards Mr Craig Whyte by Sir David Murray and the Murray Group. Mr Bain disclosed the contents of the investigation report into Mr Craig Whyte and provided Sir David Murray with a copy of the report.
28. That Sir David Murray explained to Mr Bain that he was under pressure from Lloyds to dispose of and realise his MIHL shareholding in Rangers FC to Mr Craig Whyte, and that in view of his overall financial position he was left with almost no option but to sell his shares to Mr Craig Whyte. He urged Mr Bain to secure the agreement and approval of the IBC and the Board of Rangers FC to the sale of the MIHL shares to Mr Craig Whyte. Mr Bain declined to do so and from the time of that meeting prior to 6 May 2011 Mr Bain's hitherto close relationship with Sir David Murray was damaged.
29. That In addition to the pressure on the IBC and the Board of Directors by Sir David Murray to approve and support the sale of shares to Mr Craig Whyte, Mr Alastair Johnston (Chairman and Director) was put under pressure by Lloyds to secure approval of the sale. From his communications with the officers of Lloyds his perception was that Rangers FC's own debt and financial facilities situation with Lloyds would be seriously prejudiced were the opposition to the MIHL sale to Mr Craig Whyte to be maintained by the IBC and the Board.

30. That one of the very substantial areas of concern of the IBC was in establishing that Mr Craig Whyte had the required funds available and in place to finance the acquisition, required repairs to Ibrox Stadium and injection of working capital which was required by Rangers FC. They were informed by Mr Craig Whyte that funds were in place with his solicitors Collyer Bristow in London. The IBC was advised that proof of funds had been exhibited to the Murray Group. Upon the IBC making enquiry of the Murray Group it was confirmed that they had had sight of a letter from Collyer Bristow establishing proof of funds. This confirmation by the Murray Group was accepted as sufficient proof by the IBC.

31. That Mr Craig Whyte did not at any time prior to 6 May 2011 disclose to the IBC or any director or other officer of Rangers FC that he had ever been disqualified from being a director in terms of the Company Directors' Disqualification Act 1986. In particular he did not disclose that on 13 June 2000 he had been disqualified from being a director of a company, pursuant to the Company Directors' Disqualification Act 1986 for a period of seven years.

32. That Mr Craig Whyte did not disclose the fact of his said company director disqualification to Mr Alastair Johnston (Chairman and Director), Mr Martin Bain (Chief Operations Officer and Executive Director), Mr Donald McIntyre (Executive Finance Director), Mr John McClelland (Non Executive Director), Mr John Greig (Non Executive Director), or Mr Paul Murray (Non Executive Director) at any time prior to October 2011.

33. That despite the IBC being deeply concerned about the financial viability of any offer from Mr Craig Whyte, and about his good faith, his financial standing, his business background, his accurate and complete knowledge of the financial affairs of Rangers FC due to his lack of enquiry, and his commitment to the well being of Rangers FC, and despite the IBC having deep concerns as to Mr Whyte's personal suitability to be a chairman or director of Rangers FC as evidenced in the investigation report which had been seen by at least Mr Martin Bain and Mr Alastair Johnston, and despite deep suspicions about the motives of Mr Whyte for acquiring the majority shareholding, the IBC engaged in discussions with Mr Craig Whyte in relation to the offer he was proposing to make. The IBC sought and secured greater financial undertakings from Mr Craig Whyte through his companies in terms of future investment in Rangers FC than was purportedly offered previously.

34. The agreed consideration of £1 for the MIHL shareholding was to be received by the vendor MIHL and the debt liabilities of Rangers FC amounting to approximately £18,000,000 owed to Lloyds were to be assigned to Mr Craig Whyte's company Wavetower Limited.

35. That whilst the IBC and other members of the Board of Directors of Rangers FC were strongly opposed to the purchase of shares from MIHL by Mr Craig Whyte personally or through any of his companies, they did not raise or successfully maintain any substantial level of resistance nor public awareness of their very real concerns, but instead continued to engage in discussions with Mr Craig Whyte aimed at enhancing the terms of the share purchase agreement.
36. That a share purchase agreement was entered into between Wavetower Limited and MIHL for the purchase of the majority shareholding. In terms of that agreement the shares were transferred on 6 May 2011. The consideration paid to the vendor was £1, paid in cash. That in addition to the consideration, in terms of the share purchase agreement Wavetower Limited gave a number of undertakings in relation to Rangers FC. In addition the debt of £18,000,000 owed by Rangers FC to Lloyds was assigned to Wavetower Limited.
37. That on 6 May 2011 Mr Craig Whyte's company Wavetower Limited acquired an 85% shareholding in Rangers FC from MIHL. On that same date, Mr Donald Muir and Mr Mike McGill, both Non Executive Directors, appointed to the Rangers FC Board in respect of the interest of Lloyds, whose loan facilities of £18,000,000 had then been assigned by Rangers FC to Wavetower Limited in terms of the share purchase agreement, resigned from the Board of Rangers FC?
38. That on 12 May 2011 Wavetower Limited changed its name to The Rangers FC Group Limited. The company directors of The Rangers FC Group Limited are Mr Craig Whyte, (Chairman), Mr Philip Betts (resigned 13 January 2012), and Mr Andrew Ellis. The Rangers FC Group Limited is wholly owned by Liberty Capital Limited. Liberty Capital Limited is a limited company incorporated in the British Virgin Islands. Liberty Capital Limited is wholly owned by Mr Craig Whyte.
39. That on 6 May 2011 Mr Philip Betts was appointed to the Board of Directors of Rangers FC by Mr Craig Whyte as a Non Executive Director. Mr Betts has no prior connection with Rangers FC or football but does have expertise in Credit Finance arrangement.
40. That on 23 May 2011 Mr Alastair Johnston was removed by Mr Craig Whyte from the role of Chairman and Director. On the same date Mr Paul Murray, a Non Executive Director was removed as a director by Mr Craig Whyte.

41. That a meeting of the Board of Directors was convened on 24 May 2011. Mr Craig Whyte installed himself as Director and Chairman of the Board of Directors. On 6 May 2011 Mr Gary Withey, Solicitor, of Collyer Bristow, Solicitors, London, who had previously advised Mr Craig Whyte in relation to his acquisition of the majority shareholding from MIHL, had been appointed Company Secretary of Rangers FC.
42. On 24 May 2011 Mr Martin Bain, Chief Operating Officer and Executive Director, and Mr Donald McIntyre, Executive Finance Director, were suspended from duty by Mr Craig Whyte by conference call whilst abroad on Rangers FC charity business. In early course allegations were published in the press suggesting unspecified financial irregularities on the part of Mr Martin Bain and Mr Donald McIntyre.
43. That no details of any alleged financial irregularity involving Mr Martin Bain or Mr Donald McIntyre have ever been specified or substantiated and no action of any kind has ever been taken by Rangers FC, Mr Craig Whyte, Wavetower Limited, The Rangers FC Group Limited or other company against either individual in respect of any such alleged irregularity.
44. That shortly after the acquisition, on 3 June 2011 Mr Craig Whyte as Chairman of The Rangers FC Group Limited, in terms of Takeover Panel requirements, issued a letter to shareholders in which he set out a number of intentions which would apply for the period of the next twelve months. These included undertakings to waive Rangers FC debt in the event there was not an insolvency event as a result of "the Big Tax Case", provide or procure immediate working capital of £5,000,000, and provide immediate player acquisition funds of £5,000,000, with a promise of providing or procuring four more injections of £5,000,000 over each of the succeeding years.
45. That in consequence of the concerns of the IBC it made a statement which was circulated to shareholders in Rangers FC with the letter of Mr Craig Whyte dated 3 June 2011. The letter expressed concerns about the terms of the offer which had been accepted by MIHL from Wavetower Limited and called upon Wavetower Limited to make full disclosure of the full terms of the agreement, comprehensive details of the acquirer, proof of funding and seeking firm commitment to agreed future investment in Rangers FC.
46. That on 18 June 2011, Mr Alistair Russell was appointed by Mr Craig Whyte to be the Chief Executive Director and Chief Operations Officer. On the same date Mr Craig Whyte appointed Mr Gordon Smith as an Executive Director and to be Director of Football.

47. That some confusion arose in relation to the continuing status of Mr David King (Non Executive Director) who had been on the previous Board for some years, but it was resolved and he remained a Non Executive Director of Rangers FC. Mr John McClelland and Mr John Greig remained on the Board as Non Executive Directors.
48. On 20 June 2011 Mr Martin Bain, having been suspended on 24 May 2011, resigned from his position amidst some publicity. He was subsequently to raise an action against Rangers FC in respect of breach of contract issues. The action was discontinued after 14 February 2012.
49. That upon assuming the position of Chairman, Mr Craig Whyte initiated a programme of reform of the systems and structures of Rangers FC. He appointed a new company secretary in Mr Gary Withey. Mr Andrew Dickson, who as Head of Football Administration had been responsible for many years for dealing with the Official Return and amendments to the Official Return involving such matters of appointments of new directors, Scottish FA registrations and licensing matters, and who knew of the importance attached to the process by the Scottish FA, made enquiries of Mr Craig Whyte in relation to the need for Mr Craig Whyte to complete and submit the application and declaration relative to the amendment form. He provided Mr Craig White with a copy of the amendment form. He provided Mr Craig Whyte with a copy of the relevant Articles of Association of The Scottish FA to which reference was made in the form. He requested its completion and signature by Mr Craig Whyte and its prompt return to Mr Andrew Dickson.
50. That Mr Craig Whyte failed to return the amendment form promptly to Mr Andrew Dickson and Mr Andrew Dickson became anxious about complying with time limits for lodging it. He was aware that the Scottish FA applies strict time limits in these matters and it is an area where substantial difficulties can arise. In the course of a series of reminders to Mr Craig Whyte he was eventually informed by Mr Craig Whyte that the amendment form had been completed by him and had been countersigned by Mr Gary Withey, as Company Secretary, and had already been submitted to the Scottish FA. Mr Dickson was surprised and concerned that as Head of Football Administration he had no knowledge of the terms entered in the form or the declaration of compliance submitted on behalf of Rangers FC, He also felt personally irked that a substantial and significant part of his own professional responsibility had been taken over by Mr Gary Withey whom Mr Dickson did not know and whose knowledge of and understanding of the Scottish FA registration system and practice was not an area of obvious experience.

51. That it was unclear to Mr Andrew Dickson, Head of Football Administration, what was the role of Mr Gordon Smith, Director of Football and Executive Director. who was appointed by Mr Craig Whyte on 18 June 2011. No job description or remit for Mr Gordon Smith was ever provided to Mr Andrew Dickson. Mr Andrew Dickson remained entirely unclear as to Mr Gordon Smith's role or function or in respect of any matter in which he may have been involved in his position.

52. That Mr Ken Olverman was the Financial Controller of Rangers FC prior to 6 May 2011 and continued in that role after that date. Prior to 6 May 2011 he had a very substantial responsibility for the management of the business administration of Rangers FC as previously explained. He had the responsibility of assimilating and compiling financial data for the information of directors and the preparing of financial reports, accounts and projections. He reported directly to Mr Donald McIntyre the Executive Finance Director. From 18 June 2011 his line manager was Mr Alistair Russell, the Chief Operations Officer and Executive Director.

53. That as part of the programme of reform of systems and structures within Rangers FC, Mr Craig Whyte immediately imposed, without consultation with any supplier of goods and services, a new policy on ordinary trade payments. Whereas prior to 6 May 2011 Rangers FC operated a policy and practice of making payment for goods and services supplied within a conventional period of between twenty five and thirty days from the date of the received invoice, there was ordered to be what was a unilateral variation in the payment terms by extending the payment period to sixty days. Mr Craig Whyte insisted on this policy and practice and Mr Ken Olverman as Financial Controller had implemented it. As a direct consequence of this policy and practice towards its suppliers and service providers, many of whom had been business partners of Rangers FC for many years, great financial stress and hardship had been suffered by many. Complaints and enquiries about payments due by Rangers FC suggested to Mr Olverman that Rangers FC's previous reputation as a good and prompt payer had been substantially damaged as a consequence of this policy and practice change.

54. That as a consequence of the policy of extended payment terms Rangers FC benefited to the extent of being able to delay payments for goods and services for a period of thirty days more than previously, allowing the sums which would have been expended during that period to be retained or used for other purposes.

55. That whereas prior to 6 May 2011 Mr Ken Olverman as Financial Controller of the ordinary business and trading operations of Rangers FC had substantial personal bank instrument signing authority and joint bank instrument signing authority with an Executive Director up to a value of £10,000, upon the implementation of the new policies he was instructed by Mr Craig Whyte that this previous bank authority was revoked and his limit for signing cheques etc was reduced to £100.
56. That in the course of the first few weeks of his chairmanship Mr Craig Whyte and Mr Garry Withey were in attendance at Rangers FC Headquarters at Argyle House, Ibrox on a frequent basis, but Mr Gary Withey then became an infrequent attender. Mr Craig Whyte's attendance became irregular and increasingly infrequent. When he attended at Argyle House he spent little time speaking to any of the operational and administration managers and staff. He was difficult to access. He spent most of the time when he was in Argyle House closed in the Chairman's room in meetings with persons unknown.
57. That Mr Ken Olverman was instructed that despite Mr Alistair Russell being the Chief Operations Officer and Executive Director, Mr Ken Olverman was to report directly to and take instructions directly from Mr Craig Whyte. He instructed that no one except Mr Craig Whyte should be provided with information by Mr Ken Olverman. Mr Craig Whyte emphasised to Mr Ken Olverman that no information about the finance or affairs of Rangers FC was to be provided to anyone not specifically approved by Mr Craig Whyte. Mr Ken Olverman was instructed that this prohibition also applied to directors of Rangers FC. Mr Ken Olverman was concerned about the policy in which he was instructed but implemented it.
58. That whereas prior to 6 May 2011 all of the directors of Rangers FC were provided by Mr Ken Olverman and other managers with briefing papers, management accounts, bank correspondence, financial accounts and projections and other materials to assist in the corporate governance of Rangers FC, after that date, on the instructions of Mr Craig Whyte, little or no information relating to the affairs of Rangers FC was made available to Mr David King (Non Executive Director), Mr John McClelland, (Non Executive Director) or Mr John Greig (Non Executive Director). Mr Ken Olverman was concerned about the policy in which he was instructed but implemented it.
59. That between 6 May 2011 and October 2011 the Board of Directors may have met once. It did not meet more than once either in conventional manner or by electronic or other means.

60. That as Financial Controller and as the company officer directly involved in its trading and financial affairs, Mr Ken Olverman was aware at all times of the state of the bank operating accounts and other bank accounts of Rangers FC. At no time between 6 May 2011 and October 2011 was he aware of any sum of money being received from Mr Craig Whyte or any company with which Mr Craig Whyte had a connection, into any account of Rangers FC.
61. That there were no meetings of the Board of Directors held after 24 May 2011.
62. That during the period from 6 May 2011 until October 2011 Mr David King (Non Executive Director) who lived in South Africa, made repeated requests by email to Mr Ken Olverman for financial and other information and accounts in order to fulfil his duty as a director in the governance of Rangers FC. Mr Ken Olverman went some way to prepare the materials for Mr David King but on seeking approval from Mr Craig Whyte for the provision of the requested information to Mr David King, a director of Rangers FC, Mr Craig Whyte instructed that Mr Ken Olverman should not provide it to Mr David King. Mr Craig Whyte then assumed responsibility for communicating directly with Mr David King and did so. In email correspondence he instructed that Mr David King should not make requests for information from Mr Ken Olverman but should instead obtain any information through Mr Craig Whyte. Mr David King became deeply disturbed by the manner in which he as a director was being treated and the manner in which Rangers FC were being governed.
63. That after the meeting of 24 May 2011 Mr John McClelland was asked and agreed to continue as a Non Executive Director of Rangers FC for a period after 6 May 2011. Mr Craig Whyte asked him to continue to advise in relation to European competition matters in which he was experienced. In addition Mr John McClelland continued to attend the offices of Rangers FC on occasion in fulfilment of a business development role. During these visits he would interact with certain administrative staff but not with Mr Craig Whyte. He would on occasion speak with Mr Alistair Russell the Chief Operating Officer. As time went on his visits became less frequent.
64. That Mr John McClelland had no significant contact or communication with Mr Craig Whyte between May and October 2011. He met him by chance at a friendly football match in Blackpool. At that time there was vague discussion of a Board meeting being scheduled for 30 September 2011.
65. That a few days before 30 September 2011 Mr John McClelland learned that the meeting discussed was not to take place.

66. That shortly before 19 September 2011 Mr Ken Olverman was aware that Rangers FC were due to make a payment to HMRC in respect of PAYE income tax, National Insurance Contributions and Value added Tax. On making enquiry with Mr Craig Whyte about said payments, he was not authorised to make the payment which was therefore not paid on the due date. Upon his expressing his concern to Mr Craig Whyte Mr Ken Olverman was in due course instructed that payments to HMRC were to be suspended and withheld. At the time of the first withheld payment in September 2011 Rangers FC's financial situation was such that it could have made the payment due to HMRC.
67. That in the course of his subsequent communications with Mr Craig Whyte about the payment of these social taxes due to HMRC Mr Craig Whyte stated to Mr Olverman that non payment of the sums due was a tactic or negotiating ploy intended to improve the position of Rangers FC in any attempted negotiation with HMRC of a settlement in "the Big Tax Case".
68. That between September 2011 and February 2012 Rangers FC withheld in excess of £13,000,000 from HMRC due in respect of PAYE income tax, National Insurance Contributions and VAT. As at the date of the Tribunal determination the said sums were still outstanding and due.
69. That Mr John McClelland and Mr John Greig were increasingly aware of rumours surrounding Mr Craig Whyte and the affairs of Rangers FC and they became increasingly concerned about the current situation of Rangers FC and their own positions.
70. That on a date around the end of September 2011 Mr John McClelland attended at the offices of Rangers FC but was stopped at the reception by the receptionist who asked him to wait in the public area. After a call was made to him Mr Alistair Russell (Chief Operations Officer) emerged and spoke with him. He invited Mr McClelland to have a discussion with him in the public coffee shop. A discussion took place between them which lasted for approximately two hours.
71. That as a result of the discussion and the perceptions of both Mr John McClelland and Mr John Greig arising from the absence of any management accounts or financial information about Rangers FC being provided to them, the failure to convene any Board meetings and Mr McClelland's exclusion from the offices, they both arrived at the conclusion that they were now being so marginalised and excluded from the governance of Rangers that their position as directors was untenable.

72. That Mr John McClelland (Non Executive Director) and Mr John Grieg (Non Executive Director) both resigned as directors on 17 October 2011.
73. That shortly after the date of their resignation, Mr John McClelland was aware of rumours outside Rangers FC about late payment of taxes. These rumours increased in the course of November 2011 and became rumours of non payment of taxes. He did not discuss these rumours with any continuing director of Rangers FC or take any other action.
74. That in the course of the latter part of August 2011 Mr Ken Olverman was contacted by two senior officials of the Customs and Excise (VAT) division of HMRC. Their enquiry was in relation to invoices which had been discovered in the business records of Ticketus which bore to have been raised by Rangers FC. The invoices related to sums of many millions of pounds and the VAT element in each of them had been the subject of offset by Ticketus in the submission of its VAT returns for the last period. Such was the size and impact of this offset of VAT which had been paid by Ticketus in respect of these invoices, that Ticketus had made a claim for payment of a substantial sum to it by HMRC by way of recovery of VAT paid.
75. That Mr Ken Olverman, the Financial Controller of Rangers FC had no knowledge of the existence of the invoices purportedly raised by Rangers FC. The raising of such invoices was a matter which fell squarely within his sphere of responsibility and it was inconceivable that such invoices for such large sums could be raised and issued from the finance office of Rangers FC without his knowledge. He had no knowledge of any agreement with Ticketus which might give rise to any invoice within the period concerned. He was unaware of any current transaction with Ticketus and knew that no sums of money had been received in recent times from Ticketus into any accounts of Rangers FC.
76. That in the course of September 2011 Mr Ken Olverman had sight of the said invoices. The nature and format of the invoices was entirely different to that of invoices raised within the finance office of Rangers FC. He was of the view that it appeared as though "Clip Art" computer processes had been involved in their creation. They did not appear to him to resemble any invoices he had ever seen issued by Rangers FC. Having sight of the invoices confirmed his view even further that they had not been created within the finance office of Rangers FC.

77. That Mr Ken Olverman believed from his conversations with the HMRC official that the invoices were the subject of further investigation. He accordingly took no further action in relation to the invoices. He did not make enquiry of Mr Craig Whyte nor of Mr Gary Withey. He did not inform any of the current directors of Rangers FC of the matter.
78. That on 19 October 2011 the BBC broadcast an edition of its programme *Panorama* which was, essentially an expose of Mr Craig Whyte and his prior business history. It claimed *inter alia* that he had been disqualified from being a director of a company on 13 June 2000 for a period of seven years pursuant to the Company Directors' Disqualification Act 1986. It was generally very critical of Mr Craig Whyte and his business practices. The former chairman Mr Alastair Johnston was featured in the programme and spoke of the misgivings of the previous Board about Mr Craig Whyte. He spoke of the pressure being exerted on Rangers FC by Lloyds to withdraw its resistance to his acquiring the majority shareholding. The programme content was such as to lower significantly the reputation of Rangers FC. The programme content was such as to lower significantly the reputation of Mr Craig Whyte. The programme content was such as to lower significantly the reputation of the game of Association Football in Scotland.
79. That on 30 November 2011 Rangers FC made a disclosure to the PLUS Stock Exchange that "Craig Whyte was disqualified to act as a director of Vital UK Limited in 2000 for a period of seven years. The Directors of The Rangers Football Club plc accept responsibility for this announcement". The notice of disclosure was published *inter alia* on the Dow Jones Newswires website.
80. That the said announcement is in its terms misleading as Mr Craig Whyte was disqualified from being a director in any company for a period of seven years. The disqualification did not apply only to the company Vital UK Limited. It did serve, nonetheless to confirm the knowledge of Rangers FC of Mr Craig Whyte's disqualification.
81. That the Rules of the PLUS Stock Exchange require that a past disqualification of any person who is appointed a director of a company which is a member of PLUS Stock Exchange must be disclosed immediately upon his appointment. Rangers FC did not make disclosure of the disqualification on 6 May 2011 or include the fact of disqualification or any details related to the disqualification in the information lodged with the PLUS Stock Exchange in May 2011

82. That PLUS Stock Exchange initiated its disciplinary process against Rangers FC and the process was determined on 27 February 2012 by it finding Rangers FC in breach of its rules. It imposed a public censure and a regulatory fine of £50,000. It ordered public intimation of its determination.
83. That in mid November 2011 Mr Ken Olverman realised that the revenue accounts of Rangers were significantly under pressure and that a situation was arising in which there was insufficient cash at hand or within its borrowing facilities to meet the obligations of Rangers FC. He reported the position to Mr Craig Whyte and Mr Gary Withey and requested that there be an injection of working capital.
- 83 That in later November 2011 a sum of some £200,000 was transferred from Messrs Collyer Bristow, Solicitors, London to the revenue accounts of Rangers FC, and the obligations of Rangers FC were met.
- 84 That in early December 2011 Mr Ken Olverman realised that there were insufficient funds within the revenue accounts of Rangers FC or within its borrowing facilities to meet its current liabilities including its wages and salaries due in December 2011. He contacted Mr Craig Whyte and Mr Gary Withey and advised them of the situation and advised them that a working capital injection of £800,000 was required to cover the obligations which required to be met.
- 85 That in the course of December 2011 a sum of £800,000 was transferred from CollyerBristow , Solicitors, London, to the revenue accounts of Rangers FC.
- 86 That the two sums of £200,000 and £800,00 from Collyer Bristow, Solicitors. London, transferred to Rangers FC upon Mr Ken Olverman's requests in November and December of 2011 comprise the only sums of capital paid into the revenue accounts of Rangers FC between 6 May 2011 and 6 March 2012.
- 87 That in recent years the wages and salaries payable by Rangers FC under the Pay As You Earn tax accounting scheme amounted to between £1,000,000 and £1,500,000 per month. This level of income tax liability arising from the wages and salaries continued during the period between 6 May 2011 and 6 March 2012.
- 88 That during that period between September and February, no payments were made by Rangers FC in respect of PAYE income tax, National Insurance Contributions and VAT. The non payment was a deliberate act in furtherance of a decision of the Chairman and director of Rangers FC not to make payment as a negotiating tactic in the resolution of "the Big Tax Case".

- 89 That on 11 February 2012 Rangers played a Scottish Premier League match against Dunfermline Athletic Football Club. It failed to make payment of the sums due to Dunfermline Athletic Football Club within ten days i.e. by 21 February 2012.
- 90 That on 5 February 2012 Rangers FC played a Scottish Cup Competition match against Dundee United. It failed to make payment of sums due to Dundee United on the day of said match. It failed to make payment of sums due to the Scottish FA within three days of said match. That since the matter of the sums unpaid to Dunfermline had come to light, steps had been taken by Rangers supporters to pay the sums due to be paid by Rangers FC and the sums due to Dunfermline had been settled by that means.
- 91 That the sums owed to Dundee United Football Club had been settled in part by the Scottish FA from monies contractually due to Rangers FC by the Scottish FA re participation in the Scottish Cup but the sum of £31,000 was still due.
- 92 That on 14 February 2012 Rangers FC were placed in Administration by order of the Court of Session. Two insolvency practitioners from the firm of Duff and Phelps were appointed administrators. The principal Creditor was HMRC and sums owed to it were in excess of £13,000,000.
- 93 That in all material respects, between 6 May 2011 and 14 February 2012 Mr Craig Whyte was “the directing mind and will” of Rangers FC.
- 94 That at the date of the Determination on 23 April 2012 Rangers FC remained in administration.
- 95 That a football club in administration is prohibited from registering new players with the Scottish FA.
- 96 That since the appointment of the Administrators Messrs Duff and Phelps on 14 February 2012 the practical management of Rangers FC has been outwith the control of the directors of Rangers FC including Mr Craig Whyte and it has been under the control of the Administrators assisted by the Head of Football Administration, the Team Manager, and other officers of the company.
- 97 That Rangers FC employ in excess of three hundred individuals in a wide variety of football playing, professional, management, administrative, marketing, skilled trade, manual and servicing roles.

- 98 That in season 2011-2012 Rangers FC has maintained its membership of the Scottish Premier League and has fulfilled all of its fixtures.
- 99 That payments due to certain football clubs in Scotland in respect of shares of ticket and gate receipts have been satisfied, including by claw back arrangements by the Scottish FA and other bodies from distributable contract funds, but that some £31,000 remains outstanding to Dundee United.
- 100 That the Administrators Messrs Duff and Phelps have invited offers for the sale of Rangers FC.
- 101 That on 23 April 2012 The Rangers FC Group Limited was the majority shareholder in Rangers FC, holding some 85% of the company's shares.
- 102 That Mr Craig Whyte had declined to engage in the Judicial Panel Discipline Tribunal Hearing despite having indicated a contrary position through his solicitors at the initial stages of the process. Through his solicitors he sought an adjournment of the first hearing fixed for 29 March 2012 until no earlier than the beginning of July 2012 in order to allow him to prepare his case and in addition he sought the disclosure of a wide raft of documents from both the Scottish FA and from the Administrators of Rangers FC. Through his solicitors there were advanced certain legal issues and propositions relative to the Notices of Complaint and the Judicial Panel Disciplinary Tribunal. His solicitors indicated that his response to the Notices of Complaint was that the complaints were denied. No further position was advanced on his behalf. In view of the Tribunal not being satisfied on the basis of what was contained in the letter from Mr Craig Whyte's solicitors that there was sufficient reason to adjourn the hearing fixed for 29 March it declined to do so and requested his attendance. At the hearing on 29 March 2012 neither Mr Craig Whyte nor his solicitors were in attendance. Rangers FC were in attendance represented by its Head of Football Administration and the Administrators Messrs Duff and Phelps. They were assisted by their solicitor. Rangers FC were anxious to secure a speedy resolution of the Tribunal process. The Tribunal obtained an undertaking from the Compliance Officer of the Scottish FA and the Administrators of Rangers FC that subject to certain classes of documents there would be immediate disclosure of the documents sought. In the absence of sufficient explanation for the relevance of certain documents sought the Tribunal had meantime excluded those documents but had sought the assistance of Mr Craig Whyte in its enquiries and to explain the relevance of the further documents prior to making any order thereon. It accordingly continued the hearing until 6 April 2012 and made an order relative to his attendance. It would at that time be open to Mr Craig Whyte to make representations on any matter including the question of any further adjournment of the case.

In addition, in view of the uncertainty of Mr Craig Whyte's position , balanced against the desire of Rangers FC to progress matters, and having regard to the principle of avoiding delay in the judicial process, the Tribunal fixed a hearing of the substantive Complaints for 17 April 2012 and subsequent days. In the course of the following week the Judicial Panel was advised by Mr Craig Whyte's solicitors that they were no longer acting on his behalf. By personal email communication to the Judicial Panel on 4 April 2012 Mr Craig Whyte stated that he wished to appear before it "face to face" to defend his position in respect of the alleged breaches of the Disciplinary Rules. He advised that he had received advice from Strathclyde Police which led him to consider his safety was compromised were he to attend the hearing at Hampden Park on 6 April 2012 and he requested an adjournment of the hearing. He did not explain in what way his safety was compromised. He did not explain how adjournment of the hearing would resolve the Tribunal issue. He did not explain how long an adjournment he required. He did not make any application to engage in the disciplinary process by any other means such as telephone or video link or otherwise. He did not make an application to have the matter dealt with by means of written submissions. He did not make any application to have the Tribunal deal with his case on the basis of representation by solicitors or counsel in his personal absence. He clearly stated that on the basis of the advice he had obtained he would not be in attendance at the hearing in 6 April 2012. In support of his claim in relation to having received advice and having spoken to Strathclyde Police he provided a copy of a letter from Strathclyde Police providing certain advice dated 7 March 2012. The said letter was genuine.

103 That Hampden Park, Glasgow has a sophisticated and highly effective security system and regularly hosts the attendance of high profile and public figures for whom security and personal safety are priorities. Individual and specific arrangements are arrived at by the security advisors and staff of Hampden Park and Strathclyde Police and other agencies on a regular and frequent basis. Strathclyde Police is entirely familiar with the security arrangements at Hampden Park, Glasgow.

104 That on 5 April 2012 the Tribunal had sought and obtained clear information through proper official channels as to the advice which was given to Mr Craig Whyte about his personal security and safety. The enquiry was at the highest level and was directed at the specific issue of his attendance at Hampden Park, Glasgow on 6 April 2012 and subsequent dates and any security or safety issues which might arise. The Tribunal was not satisfied upon the basis of the clear information with which it was provided by Strathclyde Police either that Mr Craig Whyte had been advised that his personal safety would be endangered by his attendance at Hampden Park, Glasgow on 6 April 2012 and later dates,

or, further, that in his attending Hampden Park, Glasgow on any of these dates Mr Craig Whyte's safety and security would be endangered if he took the normal security and safety precautions which were the ordinary and everyday precautions which any person with a public profile would consider responsible and unexceptional.

105 That on 5 April 2012 the Tribunal refused Mr Craig Whyte's request for an adjournment and in communication by email to the address from which he had made his application advised him of its decision on his request for an adjournment and reminded him of the Tribunal's order compelling him to be in attendance at the hearing on 6 April 2012 to assist it in its enquiries. Mr Craig Whyte did not respond.

106 That at the Tribunal hearing on 6 April 2012 Rangers FC was in attendance represented by their Head of Football Administration, and the Administrators Messrs Duff and Phelps. They were assisted by its solicitor. Mr Craig Whyte was not in attendance, nor was he represented. No further communication from Mr Craig Whyte had been received by the Judicial Panel Secretary or the Scottish FA Compliance Officer. The Tribunal was informed by the Compliance Officer and by the Administrators that all documents previously sought by Mr Craig Whyte, with the exception of those specifically excluded, had been provided to him personally since his solicitors ceased acting. The Tribunal was satisfied that the Compliance Officer and Administrators had fulfilled their undertakings. On the basis that no further information relative to the excluded documents was available the Tribunal made no further order.

107 That the Tribunal was not at any time prior to its Determination on 23 April 2012 provided by Mr Craig Whyte with any information with which to assist its enquiries into the factual matters involved in the Notices of Complaint or to assist it in the determination of the Notices of Complaint against him. He has refused, upon a purported basis upon which the Tribunal on its own proper official enquiries was not satisfied, to attend the Tribunal's hearings. He has, if press reporting is accurate, been in Scotland and has ventured into the public eye and public places without obvious security concerns. He has, if press reporting is accurate, made a significant number of statements derogatory of the Scottish FA and has impugned the integrity and independence of the Judicial Panel Protocol, its members and process. He has not provided any information or evidence of his present intentions, circumstances or financial position to assist the Tribunal in assessing any appropriate sanction or sanctions which might be imposed. He has, if press reporting is accurate, indicated that he has no intention of paying any fine which the Tribunal might impose, and expressed the view that there was nothing the Judicial Tribunal or the Scottish FA could do to recover any such fine. He has, if press reporting is accurate, been dismissive of the powers and fairness of the Judicial Panel.

108 That throughout the course of the disciplinary process conducted under the Judicial Panel Protocol, the conduct of Rangers FC through its responsible officers, Administrators and solicitors was exemplary. It dealt with matters raised by and through the Compliance Officer with care and courtesy and did so promptly and efficiently. In its dealings with the Judicial Panel Secretary it had demonstrated the same approach to all matters. In appearing before the Tribunal, Rangers FC through its representatives had demonstrated courtesy and professionalism and had behaved with respect to the Judicial Panel process. It had cooperated in every respect with requests of the Compliance Officer and the Judicial Panel. Its case was presented throughout in a thoroughly clear and extremely well prepared manner.

Submissions

Compliance Officer

The Compliance Officer made his submissions in relation to the various alleged breaches of the Disciplinary Rules and invited the Tribunal to hold the alleged breaches proven.

These will be considered further but in short they were these:

A number of fundamental legal issues required to be considered.

He submitted that the liability of a company for the actings of a director were determined under reference to the legal principle explained in the case of Tesco Supermarkets Ltd v Nattrass(1972) AC 153.

He submitted that applying the law as set out in that case to the facts of the present complaints on a balance of probabilities resulted in liability being established against Rangers FC for the acts of its director Craig Whyte who was the “directing mind and will” of the company during the period in question in relation to the alleged breaches.

He submitted that where a rule imposed a strict liability on a company to comply with it (in the absence of establishing a defence contained within the rules) any failure to comply constituted a breach of the rule by the company, and the particular circumstances of that breach could only be reflected in the sanction which fell to be imposed.

He submitted that in regard to the question of bringing the game into disrepute the Tribunal should have regard to the principles explained in the cases heard in the Court of Arbitration for Sport :

Arbitration CAS 2008/A/1539 D'Arcy v Australian Olympic Committee (27 May 2008)

Arbitration CAS 2008/A/1605 Jongewaard v Australian Olympic Committee (19 September 2008)

He submitted that there was a four part test comprising:

- 1 Establishment that there has been a breach of a rule.
- 2 Establishment that the party accused has been responsible a breach of a rule (whether as a result of direct or personal action or by operation of another principle of law).
- 3 Establishment that the matter has come within the knowledge of the public and into the public domain.
- 4 Establishment that the breach by the party has substantially lowered the reputation of the game as would be assessed by the "reasonable man" considering the matter objectively.

The Compliance Officer submitted that in charge 4 involving six elements each of the six elements satisfied the test and each one would be a proper basis for a finding that the game had been brought into disrepute.

He submitted that the charge of not acting other in the best interests of Scottish Football was a matter for the judgement of the Tribunal but that the purpose of the rule should guide interpretation of it in accordance with the case of *Pepper v Hart* (1993)AC 593

He invited the Tribunal to find all of the alleged breaches proven upon a balance of probabilities.

Rangers FC

Mr McLaughlin

In presenting the case for Rangers FC, Mr McLaughlin, Solicitor, Biggart Baillie LLP for Rangers FC had led the following witnesses:

Mr John McClelland , former Non Executive Director, Rangers FC

Mr Andrew Dickson, Head of Football Administration, Rangers FC

Mr Ken Olverman, Financial Controller, Rangers FC

Mr Martin Bain, Former Chief Operating Officer and Executive Director, Rangers FC

Each witness was examined by Mr McLaughlin in chief, where advised cross-examined by the Compliance Officer and where advised questioned by the Tribunal. Thereafter an opportunity was given to Mr McLaughlin to re-examine.

Mr McLaughlin then made his submissions in relation to the various alleged breaches of the Disciplinary Rules. He invited the Tribunal to accept the evidence led on behalf of Rangers FC and its admissions in its response but invited the Tribunal to conclude that upon a proper consideration of the evidence there ought to be a distinction drawn between Rangers FC and Mr Craig Whyte as regards culpability. He invited the Tribunal to be slow to be satisfied upon the balance of probabilities that the allegations had been proven.

He accepted that the law relating to the liability of a company for the actings of its directors was as explained in the case of Tesco Supermarkets Limited vNattrass.

In relation to the first complaint and the alleged breach of Disciplinary Rule 1 he submitted that the Article 10 (2) (g) to which reference was made in the complaint did not in fact create an obligation on Rangers FC to disclose the information to the Scottish FA. Accordingly he submitted there could be no breach of that Article in the event there was no disclosure by Rangers FC. He conceded that an obligation was created by Article 10(1) but that was not what was alleged. On the basis that the alleged failure by Rangers FC could not be a breach of the Article under which the complaint was made the Tribunal for that reason should find it not proven against Rangers FC. In essence his submission was that the complaint had been brought under reference to the wrong Article and had it been brought under reference to Article 10(1) then he would have been unable to make the same submission.

He submitted that the same issue arose in relation to the alleged breach of Disciplinary Rule 2.

He accepted that a finding of a breach in respect of the occurrence of an insolvency event was inescapable.

He accepted that in relation to the tests to be applied in relation to bringing the game into disrepute he agreed these were the tests which had been explained in the cases of D'Arcy and Jongewaard to which the Compliance Officer had referred but sought to persuade the Tribunal that in the particular facts and circumstances the Compliance Officer had failed on a balance of probabilities to establish that the four part test was satisfied in relation to each element alleged. He conceded however, that non payment of taxes was a matter which alone if established would justify a finding of disrepute if liability were established against Rangers FC.

He submitted that the tests to be applied in relation to the allegation of not acting in the best interests of the game were broadly similar and a similar approach should be taken by the Tribunal.

He submitted that the allegations relating to failures as regards payments of ticket and gate receipts were highly technical and more honoured in the breach than in the observance (a matter, it should be noted, with which the Compliance Officer agreed) and whilst it could be said that non payment of sums due was damaging to the reputation of Rangers FC no substantial detriment was otherwise occasioned. It would be equitable to deal with the matter by finding the charges not proven.

In summing up his general proposition he sought to distinguish the position of Rangers FC from that of its Chairman and Director Mr Craig Whyte. He sought to persuade the Tribunal that there was a basis in equity for distinguishing the respective positions of the parties, notwithstanding the case of Tesco which he acknowledged as the leading authority on the matter. He was unable to suggest a basis in law for the Tribunal to make the distinction for which he contended. His submission suggested that Rangers FC had been themselves duped and cheated by a director who had made false representations to the existing and current directors which were not honoured and who had created a culture of secrecy in keeping vital company information from other directors, despite their position and the fiduciary duties which they owed to the company comprising all of the shareholders.

The Tribunal adjourned the hearing and considered the evidence led before it and the submissions of Parties as to the facts of any alleged breach of the Disciplinary Rules.

The Tribunal considered evidence derived from its own enquiry and questioning of witnesses in the hearing.

The Tribunal considered whether in the light of its entitlement in terms of Paragraph 10.5.2.2 it would draw any inferences from non-compliance with its direction by Mr Craig Whyte which it considered to be appropriate and reasonable, including adverse inferences. It determined that in the circumstances of this case it was unnecessary to draw inferences from Mr Craig Whyte's non compliance.

The Tribunal recognised that it must address each factual issue on the hypothesis of an absolute denial of each element of each charge by Mr Craig Whyte.

The Tribunal recognised that it must consider the evidence and decide what facts, on a balance of probabilities, were proven and what were not.

The Tribunal considered and accepted the admissions of fact contained in the written response to the Notices of Complaint which had been lodged by Rangers FC.

The Tribunal considered that the four witnesses led on behalf of Rangers FC were generally to be regarded as credible and reliable on the matters material and relevant to the proof of the alleged breaches of the rules. The Tribunal considered that, although in certain areas the evidence of the witnesses, in each case, may have appeared to have been glossed to put the best possible complexion on an area of difficulty affecting their own position in the matter, these instances did not impact adversely upon their general credibility and reliability on matters affecting proof of the charges. The evidence of the witnesses called on behalf of Rangers FC was not substantially challenged in any significant respect by the Compliance Officer.

The Tribunal considered documentary evidence led on behalf of both the Compliance Officer and Rangers FC.

The Tribunal considered the absolute denial of each element of each charge deemed to be the position of Mr Craig Whyte and considered whether its view on the credibility and reliability of the witnesses and documentary evidence led on behalf of Rangers FC was influenced or affected by the deemed denial. It concluded that it was not and accordingly it rejected the deemed absolute denial by Mr Craig Whyte in every material respect.

The Tribunal made the findings in fact as set out above.

The Legal Issues.

The right to a fair hearing in terms of Article 6 of the European Convention on Human Rights:

There was no preliminary objection or later objection by any party to any issue affecting the hearing process or impugning its fairness.

There was no challenge at any stage in the hearing to the impartiality or independence of the Tribunal.

The Tribunal was established under the Articles of Association of the Scottish FA and the Judicial Panel Protocol under which the parties had expressly or by association agreed to be bound.

The identity of the members of the Tribunal had been intimated to parties in advance of the Tribunal hearing.

The hearing was conducted in private in accordance with the agreed Judicial Panel Protocol to which the parties had submitted. In any event there were special circumstances in relation to public order and security where a public hearing would prejudice the interests of justice. The outcome of the hearing would be published and made public.

The Tribunal was satisfied that there had been a hearing within a reasonable time; there was a clear notice of the hearing and the allegations made; there had been full disclosure by the Compliance Officer of the evidence upon which the allegations were based and which would be relied upon in the hearing; parties each had the opportunity to attend and participate in the hearing process; all parties had sufficient access to representation; there had been adequate time and facilities for the parties to prepare for and present their cases; each party was permitted to examine and have examined any witness against them and to secure the attendance and lead evidence from any witness on the parties' behalf.

The Tribunal was satisfied that parties had the opportunity to engage in an adversarial process and to have knowledge of and comment on the observations advanced or evidence adduced by the other parties.

The Tribunal conducted a proper examination of the submissions, arguments and evidence adduced by the parties without prejudice to its assessment of whether they were relevant to its decision.

Jurisdiction:

There was no preliminary objection by any party to the jurisdiction of the Tribunal to hear and determine the alleged breaches of the Disciplinary Rules in the complaints against either Rangers FC or Mr Craig Whyte. In any event the Tribunal decided that it did have jurisdiction under the Articles of Association and the Judicial Panel Protocol to hear complaints against Rangers FC as a “member” of the Scottish FA and against Mr Craig Whyte as an “Associated Person”ⁱ.

Competence:

There was no preliminary objection made to the competence of the proceedings, to any document service issue, fair notice issue or any other procedural matter.

Relevance :

There was no preliminary objection made to the relevance of any charge on the basis of the alleged conduct not being an offence under the particular rule invoked. There was no lack of specification issue. The matter of the relevance of an alleged breach of the rules is a matter to which this Note will return.

Admissibility

The Judicial Panel Protocol at 10.9.2 provides the Tribunal shall not be bound by judicial rules governing the admissibility of evidence. There were no adminicles of evidence or lines of examination to which objection was taken by any party. The Tribunal did not consider any oral evidence led by any party or documentary material advanced by any party to be irrelevant to its proper consideration of the complaints before it or unfair in any respect to any party.

The Attribution of Improper Conduct on the Part of a Director to his Company

This was one of the central legal issues in the case.

The Compliance Officer submitted to the Tribunal that in so far as any company (including such a company as Rangers FC) is an abstract legal concept but is at the same time a separate legal *persona*, it cannot in its own right be responsible for acts or omissions. However it can and should be held accountable under the principle of identification of the company with the director or officer who is the “controlling or directing mind” of the company.

The Compliance Officer directed the Tribunal to the Judicial Committee of the House of Lords decision in the case of *Tesco Supermarkets Ltd v Nattrass*(1972) AC 153.

In his speech Lord Reid said:

“Where a limited company is the employer difficult questions do arise in a wide variety of circumstances in deciding which of its officers or servants is to be identified with the company so that his guilt is the guilt of the company.

I must start by considering the nature of the personality which by a fiction the law attributes to a corporation. ***A living person has a mind which can have knowledge or intention or be negligent and he has hands to carry out his intentions. A corporation has none of these: it must act through living persons, though not always one or the same person. Then the person who acts is not speaking or acting for the company. He is acting as the company and his mind which directs his acts is the mind of the company. There is no question of the company being vicariously liable. He is not acting as a servant, representative, agent or delegate. He is an embodiment of the company or, one could say, he hears and speaks through the persona of the company, within his appropriate sphere, and his mind is the mind of the company. If it is a guilty mind then that guilt is the guilt of the company. It must be a question of law whether, once the facts have been ascertained, a person in doing particular things is to be regarded as the company or merely as the company's servant or agent.*** In that case any liability of the company can only be a statutory or vicarious liability.

In Leonard's Carrying Co. v. Asiatic Petroleum Co. [1915] AC 705 the question was whether damage had occurred without the actual fault or "privity" of the owner of a ship. The owners were a company. The fault was that of the registered managing owner who managed the ship on behalf of the owners and it was held that the company could not dissociate itself from him so as to say that there was no actual fault or privity on the part of the company. Lord Haldane L.C. said at page 713:

"For if Mr. Leonard was the directing mind of the company, then his action must, unless a corporation is not to be liable at all, have been an action which was the action of the company itself within the meaning of section 502"... It must be upon the true construction of that section in such a case as the present one that the fault or privity is the fault or privity of somebody who is not merely a servant or agent for whom the company is liable upon the footing *respondent superior*, but somebody for whom the company is liable because his action is the very action of the company itself."

Reference is frequently made to the judgment of Lord Denning in Bolton Engineering Co. v. Graham [1957] 1QB 159. He said "A company may in many ways be likened to a human body. It has a brain and nerve centre which controls what it does. It also has hands which hold the tools and act in accordance with directions from the centre. Some of the people in the company are mere servants and agents who are nothing more than hands to do the work and cannot be said to represent the mind or will. Others are directors and managers who represent the directing mind and will of the company, and control what it does. The state of mind of these managers is the state of mind of the company and is treated by the law as such."

In his submission Mr McLaughlin on behalf of Rangers FC accepted, as he was bound to do, that the case of Tesco Supermarkets Limited v Nattrass did indeed represent the law in relation to the issue of the liability of a company for the actions of a director or manager whose position and conduct made him the "directing mind and will" of the company. He accepted that any exceptions which might in another case arise from the limited nature of any authority held by an individual whose conduct was in issue did not apply in the present case.

In the present case in relation to the liability of Rangers FC for actions which could be proved in evidence to have been carried out directly or under the direct instructions of Mr Craig Whyte, Mr McLaughlin sought to find a point of distinction which would avoid the consequences of the application of the principle clearly explained in the case of Tesco Supermarkets Limited v Natrass . He was unable to do so.

In light of the Tribunal finding in fact that during the period from 6 May 2011 until 14 February 2012 Mr Craig Whyte was the “directing mind and will” of Rangers FC, and that he had deliberately engaged in a programme of non payment of taxes due to HMRC, the Tribunal was bound in law to hold that Mr Craig Whyte’s culpable acts and breaches of Disciplinary Rules were to be regarded, where it were alleged against the company, as culpable acts and breaches of the Disciplinary Rules by Rangers FC for which it must be held liable.

The liability of Rangers FC being sufficiently established by application of the identification principle explained in Tesco Supermarkets Limited v Natrass it was unnecessary for the Tribunal to go further. The Tribunal was nonetheless clear in its assessment of the evidence and in the inferences that it was entitled to draw from facts established on the evidence that beyond the identification principle the acts and omissions of directors and senior managers of Rangers FC between 6 May 2011 and 6 March 2012 were such as to prove on a balance of probabilities that certain directors and / or senior managers were entirely aware that Mr Craig Whyte, a director of Rangers FC was engaged in a deliberate programme of non payment of taxes, non-cooperation with and frustration of the attempts of the auditors appointed by Rangers FC to carry out the annual inspection of the books of account and preparation of the statutory annual accounts which required to be lodged by 31 December 2011, and non- cooperation with and frustration of the attempts by Ken Olverman the Financial Controller to be allowed to access and distribute information which was necessary for the preparation of briefings and periodic reports and management accounts. These matters all frustrated preparation of the annual accounts and prevented the holding of the annual general meeting which required to be held by 1 January 2012. From May 2011 Mr David King was aware that he was being excluded from the governance of the company and he appears to have done little about it except repeat his demands to Mr Olverman and Mr Craig Whyte for information.

There was no information about any other steps he took as director when matters were plainly out of the control of the Board and information and accounts were kept secret from the Board. Similarly, Mr John McClelland and Mr John Greig resigned in October because they knew that they were being excluded and marginalised at the same time as they had great concerns for the governance of Rangers FC and were deeply suspicious of Mr Craig Whyte before and after his acquisition of the majority shareholding from MIHL. Other than resignation there was no evidence that either of these directors took any steps with any person or authority to do anything about what they knew was happening. Criticism might be levelled at these directors and others. Mr Olverman as Financial Controller occupied a very senior role within Rangers FC and as a matter of admission he knew of the non payment of taxes and the somewhat strange practices and secrecy which was the deliberate policy advanced by Mr Craig Whyte. Though it was no part in the matter before us, and did not impact on our decision on the complaints which were before us, Mr Ken Olverman was also aware of an apparently unusual transaction involving Ticketus which had a substantial significance in the exercise of any fiduciary duty which he, as a senior officer of the company, owed towards the company, rather than owed towards Mr Craig Whyte.

The question might be “What could they do?”. The answer is “They could have made public the activities of Mr Craig Whyte of which they were aware or ought to have been aware”. Their fiduciary duties owed to the company might for example have led them to disclose to the PLUS Stock Exchange that no accounts were likely or that no AGM was likely to be held on account of the conduct of Mr Craig Whyte and that there was a complete breakdown of the corporate governance of Rangers FC.

These are matters which did not determine the liability of Rangers FC but which bore upon the question as to what extent it could, with merit, claim that it was powerless, and that the sole responsibility was that of Mr Craig Whyte.

Reasons for Determination of Breach

Rangers FC

Principal complaint

Disciplinary Charge 1

The Tribunal found this charge not proven.

In the course of submissions it was submitted on behalf of Rangers FC that in the First Complaint relating to an alleged breach of Disciplinary Charge 1, the Article to which reference was made in the complaint did not impose an obligation, in which a failure to fulfil the obligation constituted a breach of the rule.

It is necessary to consider the terms of Disciplinary Rule 1, which read short provides that all members shall observe the principles of loyalty, integrity and sportsmanship in accordance the rules of fair play:

Be subject to the Articles of Association and any other statutes, regulations etc .

Be subject to the Judicial Panel etc.

Disciplinary Charge 1 alleges that Rangers FC breached that Rule by failing in its duty under Article 10(2)(g) to make a particular disclosure.

It is necessary to consider the terms of Article 10 of the Articles of Association of the Scottish FA.

Article 10 (1) provides:

“Each full member and associate member shall lodge with the secretary not later than 1st June in each year the Official Return and shall notify in writing without delay any subsequent changes to the details contained in such Official Return to the Secretary. Each full member and associate member will procure that the relevant office bearer, secretary, director or member of the board of management or committee of such member will personally confirm to the Scottish FA utilising the form prescribed by the Board, that:

- (a) He has been furnished with a copy of the Articles and that having read in particular Article 10 and Article 13, the information supplied by him using the prescribed form is complete, true and accurate(emphasis added), and
- (b) He is a fit and proper person to hold such position within Association Football.

Article 10(2) provides:

“The Official Return shall include details of all office bearers, secretary, directors or members of the board of management or committee of such member, Team Staff, with their full designation, profession, business or occupation and full service address, and also, subject to the provisions of Article 13 full details of the interest of such member or any office bearer, secretary, director or member of the board of management or committee of such member and of its or his associates as defined in Article 13.5 in any other member. The Board must be satisfied that any such person is fit and proper as aforesaid after due consideration of all relevant facts (emphasis added) which the Board has in its possession and knowledge, including the undernoted list which is acknowledged to be illustrative and not exhaustive (emphasis added):

Sub paragraph (g)

“ he has been disqualified as a director pursuant to the Company Directors’ Disqualification Act 1986 within the previous five years”.

The Tribunal was addressed on the interpretation of these Articles. It was submitted that on two separate bases the allegation of a breach of the Article 10 (2) must fail.

The first was that as the Article allegedly breached was 10(2)(g) it was necessary to discover in that Article an obligation on the company (which was alone charged with the alleged breach of Disciplinary Rule 1) to disclose the disqualification of Mr Craig Whyte. It was submitted that the Article did not create such an obligation.

Secondly, and in any event, it was submitted that the facts of this case did not give rise to any matter of non disclosure of a disqualification as a director within five years. The issue here was whether sub-paragraph (g) referred to an event (the act of suffering a disqualification) or a status (the condition of being a disqualified person at the time of the required disclosure). If the “event” interpretation were adopted Mr Craig Whyte did not require to make disclosure of the disqualification which he had imposed in 2000 because it did not occur within seven years. If, however, the “status” interpretation were adopted, he was a disqualified person until 2007, so that in May of 2011 less than five years had elapsed since he suffered the status of a disqualified person and there would be an obligation on him to disclose the disqualification.

The Tribunal was satisfied having regard to the submissions made and its own consideration of the Articles that the submission made on behalf of Rangers FC should be sustained and accordingly it held that the alleged breach by Rangers FC could not be made out or proved on a balance of probabilities. It agreed with the observation that it appeared that the allegation had been brought under the wrong subsection of Article 10. The same consideration would not have applied in the event that it had been brought under Article 10(1)(a) (See above-words underlined).

Article 10(2) sets out that the Board of the Scottish FA must satisfy itself on the question of whether the director is a fit and proper person and a list of some of the matters which it may take into account. It does not create an obligation of any kind on the member club.

The Tribunal observes that in view of its decision on this matter it did not require to consider the matter of the interpretation of sub paragraph (g), but had it been required to do so it would have been inclined to the view that there was substance to the submission that the “event” interpretation should prevail and it would have been inclined to find the allegation not proven on that basis. It may be that sub paragraph (g) is ambiguous and that this may lead to confusion and difficulty on an important issue. That is not a matter for the Tribunal but it may be a matter for those with an interest in considering the revision of the Articles of Association from time to time.

Disciplinary Charge 2

The Tribunal found this charge proven.

This relates to Disciplinary Rule 2 which provides that Rangers FC failed to procure that Mr Craig Whyte acted in accordance with Disciplinary Rule 1 by failing to disclose his disqualification.

At first reading it may appear inconsistent with the finding of not proven in Charge 1. That is not correct. It is indeed consistent upon an accurate reading of the provisions.

Charge 2 alleges a breach of Disciplinary Rule 2 by failing to procure that (Mr Craig Whyte) acted in accordance with Disciplinary Rule 1 (see discussion above) in “failing to disclose to the Scottish FA his disqualification” from being a director.

The charge imposes an absolute liability on the member to procure compliance and a failure to procure compliance therefore amounts to a breach of the rule. The circumstances of that failure are irrelevant to establishing the breach but may affect any sanction imposed.

What determines this matter otherwise is whether Mr Craig Whyte failed to act in accordance with Discipline Rule 1 by not disclosing his disqualification.

Significantly this charge makes no reference to Article 10(2)(g). Under reference to Disciplinary Rule 1, it therefore encompasses adherence to all of the Articles of Association, including Article 10(1) to which reference is made above.

Article 10(1)(a) plainly requires the procuring of the provision by Mr Craig Whyte of information which is “complete, true and accurate” having regard to Articles 10 etc.

Article 10(1)(b) requires Rangers FC to confirm that Mr Craig Whyte is a fit and proper person.

The requirement is under reference to the Official Return Form which is in the following terms:

As regards the Official (Mr Craig Whyte):

“ Having carefully considered the terms of Article 10 (emphasis added), in relation to the Applicant being deemed by the SFA to be a fit and proper person , is there any matter (emphasis added) which should be brought to the attention of the SFA?

Mr Craig Whyte answered this question by ticking the “No” answer box.

Further, Mr Craig Whyte then declared as follows:

“ I hereby confirm that I have been furnished with a copy of the Articles of Association of the SFA in force as at the undernoted date (“the Articles”) and that having read in particular Articles 10, 13, 14, and 15 thereof, the above information supplied by me is complete true and accurate in all respects (emphasis added)”

Mr Craig Whyte signed the form dated 20 May 2011.

As regards the member club Rangers FC, the form was completed thus:

“I, Secretary of the Club detailed in page 1, confirm that the information supplied above is complete true and accurate (emphasis added) and that Articles 10 (emphasis added), 13, 14, and 15 have been complied with.”

Mr Gary Withey signed the form on 20 May 2011 on behalf of Rangers FC in his capacity as Company Secretary.

The purpose of the Article and the Official Return form is to create an obligation on officials and members to provide, and procure complete, true and accurate information to furnish the SFA with material upon which to allow it to determine whether an official is a fit and proper person. Unlike Charge 1, such a consideration is not limited to the matter referred to in Article 10(2)(g). It encompasses “any matter” which should be brought to the attention of the SFA in its determination of whether an applicant is a fit and proper person.

On no reasonable basis, having regard to the terms of the Articles of Association, and in particular Article 10, and having regard to the purpose of the provision (under reference to the principle of interpretation explained in the case of *Pepper v Hart*) could it be considered that the fact that an applicant had in 2000 been disqualified from being a company director for a period of seven years, was not a matter which fell within the net of a declaration that information was “complete, true and accurate” in regards to disclosure relevant to an official being assessed as a fit and proper person.

On the facts proved relevant to this particular allegation, the Tribunal were in no doubt whatever that the disqualification was a matter which clearly fell to be disclosed and that a failure on the part of Rangers FC to procure disclosure of his disqualification by Mr Craig Whyte was a breach of Discipline Rule 2 on the part of Rangers FC.

The Disciplinary Charge 2 was found proven on the balance of probabilities.

Disciplinary Charge 3

It was a matter of public record and not disputed by any party that on 14 February 2012 The Rangers Football Club plc entered into Administration pursuant to an order of the Court of Session.

This constituted an insolvency event in terms of Disciplinary Rule 14 under reference to Article 15.1 (g).

The Disciplinary Charge 3 was found proven on the balance of probabilities

Disciplinary Charge 4

This charge involves an allegation that there has been a breach of Disciplinary Rule 66.

Disciplinary Rule 66 provides:

“No recognised football body, club, official, Team Official, or other member of Team Staff, player, referee, or other person under the jurisdiction of the Scottish FA shall bring the game into disrepute.”

The rule applies to both a member club such as Rangers FC and an official , such as Mr Craig Whyte.

The Disciplinary Charge 4 is bringing the game into disrepute. The charge then sets out the particular conduct which supports that charge. There were six elements set out.

It should be noted that the Judicial Panel Protocol Paragraph 11.5.4.11 permits multiple disciplinary charges being brought in respect of a single act or omission.

The six elements alleged were

1 failing to procure the disclosure of his disqualification to the Scottish FA by Mr Craig Whyte.

2 failing to comply with the rules of the PLUS Stock Exchange rules by failing to disclose the disqualification of Mr Craig Whyte.

3 failing to lodge annual accounts by 31 December 2011 in terms of s447 of the Companies Act 2006.

4 failing to hold an annual general meeting by 1 January 2012 in terms of s336 of the Companies Act 2012.

5 non payment of PAYE income tax, National Insurance Contributions and Value Added Tax to HMRC.

6 failing to pay due sums to Dunfermline Athletic Football Club by 21 February 2012 in respect of a Scottish Premier League match played on 11 February 2012 pursuant to Rule C.14.5 of the Rules of the Scottish Premier League.

This charge is complex but is approached in the following way.

1 The Tribunal considered the evidence in relation to the question of procuring the disclosure of the disqualification to the Scottish FA by Mr Craig Whyte. Upon the facts found proved the Tribunal was satisfied on a balance of probabilities that this element of the charge was proven for the reasons already discussed.

2 The Tribunal considered the evidence in relation to the failure of Rangers FC to comply with the rules of the PLUS Stock Exchange by failing to disclose the disqualification of Mr Craig Whyte to the PLUS Stock Exchange. Upon the facts found proved the Tribunal was satisfied on a balance of probabilities that this element of the charge was proven.

3 The Tribunal considered the evidence in relation to Rangers FC failing to lodge annual accounts by 31 December 2011 in terms of s447 of the Companies Act 2006. Rangers FC accepted that the annual accounts had not been lodged and made further submissions on the premise that this factual matter was established against Rangers FC. The Tribunal, however, itself noted that s447 in conjunction with s441 places an obligation on directors to lodge annual accounts timeously. The Tribunal considered whether the terms of s447 were apt to create an obligation on the company itself. Having regard to the case of Tesco the Tribunal considered that the terms of the section were apt to create an obligation on Rangers FC to lodge the accounts timeously.

Having regard to the evidence which the Tribunal had found proved, the Tribunal was satisfied that there was an obligation on Rangers FC to lodge annual accounts timeously and that Rangers FC through its directors had failed to do so, and accordingly the Tribunal was satisfied on the balance of probabilities that this element of the charge was proven.

The Tribunal considered the evidence in relation to Rangers FC failing to hold an annual general meeting timeously in terms of s336 of the Companies Act 2006. Rangers FC accepted that there had not been an annual general meeting held timeously and made further submissions on the premise that this factual matter was established against Rangers FC. The Tribunal noted that s336 places an obligation on the company to hold an annual general meeting timeously. Upon the evidence it found proved the Tribunal was satisfied on the balance of probabilities that this element of the charge was proven.

5 The Tribunal considered the evidence in relation to non payment of the taxes to HMRC by Rangers FC as set out in the complaint. Rangers FC accepted that the obligation fell on Rangers FC to make payment and it had failed to do so. It was an absolute offence to fail to make payment therefore the circumstances in which that failure occurred would have no bearing on liability but might have a bearing on any sanction. In any event the evidence was clear to the Tribunal that Mr Craig Whyte at the relevant time was the “directing mind and will” of Rangers FC and that the principle explained in Tesco brought home liability to Rangers FC. Upon the evidence which it found proved, the Tribunal was satisfied that on the balance of probabilities this element of the charge was proven.

6 The Tribunal considered the evidence in relation to non payment of a share of match proceeds to Dunfermline Athletic Football Club within ten days of the game being played on 11 February 2012, in terms of Rule C14.5 of the Rules of the Scottish Premier League. The fact of non payment was not in dispute. It was accepted that payment had not been made within the time allowed but it was noted that the period for payment was interrupted by Rangers FC going into administration on 14 February 2012 whereupon the directors of Rangers FC were prohibited from transacting with the assets of Rangers FC. The Tribunal was informed that payment of all sums due to Dunfermline Athletic had now been paid or recouped by the Scottish FA and others.

Upon the evidence it found established and the wide incidence of non compliance with this rule due to the failure of clubs to calculate the sums due quickly, the Tribunal was not satisfied on the balance of probabilities that this element of the charge was proven.

Having established that elements 1 to 5 were established as facts against Rangers FC the Tribunal considered whether the tests in relation to bringing the game into disrepute were satisfied in relation to each element. Rangers FC agreed that the tests set out in the cases of D’Arcy and Jongewaard were the correct tests. The Tribunal considered that to be the correct approach and applied the four part test. Upon the evidence which it found proved, the Tribunal was satisfied that in relation to each separate element the four part test set out in those cases was satisfied, and it held that in light of the extensive media coverage of the affairs of Rangers FC and in particular the coverage in relation to the matters set out as the five elements of the charge found proved, each taken individually was of such gravity as to substantially lower the reputation of the game. Accordingly on that basis the Tribunal was satisfied on the balance of probabilities that the disciplinary charge of bringing the game into disrepute was proven. The cumulative effect of the five separate bases for such a finding served only to aggravate the breach.

Disciplinary Charge 5

The Charge is not acting in the best interests of Association Football. The fact of non payment of sums due to Dunfermline Athletic was not in dispute. The issue was whether having regard to the absolute nature of the rule the tribunal was satisfied on the balance of probabilities that the charge was established.

Once established, it was essentially an exercise in which the same approach should be adopted as in the case of bringing the game into disrepute.

In establishing whether Rangers FC had not acted in the best interests of the game, the Tribunal did utilise the four part test set out in D’Arcy and Jongewaard. The final test was however: “Would a reasonable man viewing the matter objectively consider that Rangers had by their non payment of sums due to Dunfermline Athletic acted in the best interests of the game?”

Upon the evidence which the Tribunal found to be proved, the Tribunal was satisfied on the balance of probabilities that the alleged breach was proven.

Second Complaint

Disciplinary Charge 1

The non payment of sums due to Dundee United in terms of Disciplinary Rule 325.

Disciplinary Charge 2

The non payment of sums due to the Scottish FA in terms of Disciplinary Rule 325.

In each the fact of the breach by Rangers FC was not disputed.

These two breaches are absolute offences. Failure to carry out the obligation created by the rule brings liability. The circumstances of the breach go to mitigation of any penalty.

Upon the evidence found proved, the Tribunal was satisfied on a balance of probabilities that Rangers FC had committed each of the breaches.

Complaint against Mr Craig Whyte

Disciplinary Charge 1

This is a charge of bringing the game into disrepute. The same six elements are in issue and require proof as previously but responsibility has to be attributable to Mr Craig Whyte as the actor. The four part test to which earlier reference was made is the applicable test here.

For the same reasons as previously, and upon the evidence which it found proved, the Tribunal was satisfied on the balance of probabilities that the conduct of Mr Craig Whyte had been known publicly in relation to the various heads and that the reasonable man would, looking objectively, have concluded that the reputation of Association Football was substantially lowered and that accordingly the game had been brought into disrepute, and that this charge is proven against Mr Craig Whyte. but under deletion of the sixth element which was not established upon the evidence.

Disciplinary Charge 2

The Tribunal was not satisfied upon a balance of probabilities that this charge was established on the evidence and the charge was therefore found not proven.

Sanctions

The Tribunal, having determined that certain breaches of the relevant rules had been established on the balance of probabilities, required to determine suitable sanctions in respect of each breach.

The range of sanctions which are available to the Tribunal is set out in the Judicial Panel Protocol and in the Articles of Association of the Scottish FA.

The Judicial Panel Protocol Paragraph 11 sets out the process by which a sanction should be determined. In arriving at a suitable sanction, of course, it is necessary to take into account the circumstances of the Party being sanctioned.

The matter of sanction is one which falls squarely within the discretion of the Tribunal at first instance which has heard the evidence and which has an appreciation of the range of proper considerations.

The Tribunal took into account all materials and information placed before it by parties.

Rangers FC

It was matter of note by the Tribunal that despite an adjournment being granted to the Parties specifically to prepare submissions in mitigation of sanction, though his submissions were cogent and persuasive in a number of respects, the solicitor for Rangers FC did not address the Tribunal in any respect in relation to the current financial circumstances of Rangers FC. It is, of course a matter of public record that Rangers FC were placed in administration on 14 February 2012 and remained in administration at the date that sanctions were imposed. That, indeed, is a finding in fact in this determination.

The Tribunal, not being immune from current affairs, was also aware that there was discussion underway in relation to possible purchase offers for Rangers FC and the majority shareholding still held by Mr Craig Whyte. On 23 April 2012 when sanctions were being considered an awareness of public debate allowed the Tribunal to know that a number of bidders appeared to be in discussions.

The fact remained, however, that no information was placed before the Tribunal by its representatives (who incidentally throughout the six days of the hearing included Mr Simon Shipperlee of the Administrators Duff and Phelps who attended every session in full) as to the current financial circumstances of Rangers FC. This may be because they themselves had no clear picture as administrators where matters stood, or where matters were likely to go. That might well have precluded the provision of a single scrap of information relative to the circumstances of Rangers FC, but it placed Rangers FC in some considerable difficulty before the Tribunal.

In the absence of information as to the financial circumstances of Rangers FC (which on any view would be a vital element in the determination of a suitable sanction) the Tribunal was left to glean and infer matters from the scarce information which it had heard in the Tribunal hearing bearing upon the financial affairs of Rangers FC.

So what had been heard by the Tribunal?

In truth very little.

Rangers FC had had an overdraft facility with Lloyds which had been repaid in full on 6 May 2011 but no information was supplied advising what bank was now involved and what terms or facilities were available to Rangers FC.

Rangers FC's annual accounts had not been prepared for reasons already explained and so there was no up to date public record of the state of their finances.

No bank account statements were produced nor any explanation of its current financial state.

The Tribunal had heard that whilst there were time periods in which the revenue accounts of Rangers FC were stressed, there was apparently a substantial fund of money, from an uncertain source, being administered by Messrs Collyer Bristow which as recently as November/December 2011 had been sufficiently well filled as to allow a capital injection of £1,000,000 to be made when the finances of Rangers FC required it. The Tribunal was provided with no information as to the source of this fund, its extent or current availability and was left with the temptation of speculating as to any link with the unusual "Rangers FC" invoices which had come to light with Ticketus and apparent multi-million pound transactions which were unknown to the Financial Controller of the football club.

Similarly it would have been a temptation to engage in speculation about the reported offers to purchase and their terms and import and long term viability and prospects and so on.

To have given in to these temptations would have placed the Tribunal in serious error. It could not do so. In the absence of accounts or bank information the Tribunal was under a duty to work with what evidence of financial matters it had.

In identifying the available evidence the Tribunal was immediately aware that the wages and salaries and other taxes of Rangers FC gave rise to tax payment obligations of between £1,000,000 and £1,200,000 per month, and even the most generous rough calculation might suggest this meant that wages and salaries of twice that sum were paid by Rangers FC each month.

The Tribunal could not engage in speculation as to the outcome of "the Big Tax Case" as it had no knowledge of it. For all the Tribunal was informed, there may be no liability on Rangers FC to pay anything to HMRC or it may be a liability running to many millions of pounds. It is all speculation in which the Tribunal cannot engage.

In respect that the maximum fines which could be imposed by the Tribunal were limited to £160,000, which appears but a small fraction of an ordinary month's expenditure for Rangers FC, it appeared to the Tribunal that the circumstances of Rangers FC were not going to be significantly affected by any fine which the Tribunal could impose.

The Judicial Panel Protocol provides that in determining a suitable sanction a number of specified matters set out in Paragraph 11 should be considered in mitigation and in aggravation of any disciplinary breach. The factors of which account is to be taken unsurprisingly focus on behaviour on the football pitch. It can scarcely have been in the mind of the Protocol's draftsmen that a case such as the present one should come before it.

On any view the matters involved in this case are as serious offences against the ordinary standards of corporate governance as one could imagine. The Tribunal attempted in its exercise of fixing these matters on the scale of offences to identify a more serious offence than those on the complaints, and concluded that only match fixing in its various forms might be a more serious breach. It had no hesitation in concluding that the breaches struck at the heart of good corporate governance and social and financial probity and responsibility. They brought the game into serious disrepute. As such, they required to be regarded as at the top of the scale of seriousness.

In the case of the non payment of tax (which was possibly by the smallest margin the most serious breach) the massive extent of the failure and the intentional and calculated manner in which it was carried out aggravated the breach even further.

The failings as regards disclosure of a director's disqualification struck at fair dealing and the protection of the public from persons who had a history of corporate misbehaviour.

The Tribunal took into account the extraordinary circumstances of the offences and the extent to which Rangers FC through its directors had been apparently misled and deceived by Mr Craig Whyte. Against that it took the view that whatever their position a number of individual directors and employees must have known that what was happening within Rangers FC was entirely wrong and illegitimate but they chose to do nothing to bring it to the attention of the public. That may be matter for their long term reflection but it does reduce the mitigatory impact of the suggestion that Rangers FC were innocent victims.

The Tribunal also took into account Rangers FC had no disciplinary record involving any similar matters.

It also took into account the exemplary manner in which Rangers FC had conducted itself at the Disciplinary Hearing and in its related dealings.

The Tribunal was aware that the Judicial Panel Protocol provides not only for fines but in relation specifically to Charge 4 (bringing the game into disrepute) also the imposition of additional sanctions up to and including termination of membership if the Scottish FA., suspension and a range of other supplementary penalties.

Having regard to its view on the undoubted gravity of the breaches, the Tribunal considered whether it should terminate Rangers FC membership of the Scottish FA and concluded that punishment was too severe. It considered whether suspension of membership was a less serious but an appropriately severe punishment, but concluded that too was too severe. Having regard to the circumstances which led to the breaches by Rangers FC and the role of Mr Craig Whyte in their plight as their Chairman and director, it was concluded that a temporary prohibition on registering new players was appropriate. Twelve months was considered an appropriate period.

The Tribunal was dealing with a football club at the top of Scottish football who had a history of signing top flight players, who, logic demanded, commanded commensurate salaries. It appeared to the Tribunal that in a case such as this the punishment should relate in some meaningful way to the unpaid taxes arising from high wages and salaries amongst certain players. It appeared to the Tribunal that a temporary prohibition on registering any new players during a period of twelve months was a suitable, relevant and proportionate sanction. The Tribunal recognised that it would place pressures on Rangers FC and accordingly limited the period and specifically excluded from the prohibition the registration of persons under eighteen.

The Tribunal was of the view that whilst the sanction was severe it was not excessive and that the period covered only two signing windows. It was, of course, unknown what capacity Rangers FC may have during that twelve month period for signing and registering new players in any event. The registration prohibition struck a balance which was relevant to the mischief and proportionate to the breach.

The Tribunal considered that it was not entitled to have regard to any speculation as to the effect of the registration prohibition on any other football club, or any competition or contractual matter. Such considerations fell out with the scope of the Judicial Panel Protocol.

In recognition of the state of uncertainty of Rangers FC and in recognition of the manner in which it had conducted itself in the Judicial Panel process, the Tribunal declined to order payment of the fine within thirty days and to impose interest on it, both terms being standard terms for payment of fines under the Judicial Panel Protocol. As an element of mitigation of penalty it allowed twelve months for payment in order to relieve any acute difficulty which might be caused by an immediate payment.

Mr Craig Whyte

Mr Craig Whyte was found guilty of bringing the game into disrepute, and the Tribunal was in no doubt that he, together with a number of business associates, had engaged in scandalous business activities, which, if not illegal, of which in certain matters there may be a doubt, had a corrosive effect on the reputation of a proud football club. The Tribunal was in no doubt that Mr Craig Whyte did not engage in his activities in Rangers FC with any view to the interests of Rangers FC or Scottish football in the wider context.

The Tribunal was driven by the evidence which it accepted as credible and reliable in the proceedings before it to conclude that whatever the longer term objective might have been, Mr Craig Whyte's interests lay only with Mr Craig Whyte. The Tribunal was in no doubt that the directors of the club prior to his share acquisition were deeply suspicious of him and time appears to have justified that view. There are a number of aspects to his behaviour which will no doubt be the subject of continued investigation by appropriate agencies.

The Tribunal could do nothing else but conclude that his conduct in bringing the game into disrepute lay at the highest level of offence. It was clear on the evidence that the elements comprising his conduct bringing the game into disrepute were intentional and calculated and extended over a substantial time period.

It is clear that he engaged in a programme of exclusion of all directors except those whom he had brought with him to Ibrox, and their conduct, the Tribunal considered, bore no hint of credit at the very least.

In selecting an appropriate sanction, the Tribunal was hindered by its not having any clear information before it due to Mr Craig Whyte's declining to engage in the disciplinary process.

It therefore had to proceed upon what information it had. This included the information which forms a finding in fact that he had asserted that he would be able to meet a tax liability in the "Big Tax Case" of anything up to £15,000,000. Taking that information which he had provided to the directors of Rangers FC it appeared to the Tribunal that the payment of a fine at the maximum level was still unlikely to have any significant effect on a man of his purported wealth and so the Tribunal had no hesitation in imposing the maximum fine open to it, in order properly to reflect the gravity of the breach, measured against Mr Craig Whyte's reputed means.

Regrettably Mr Craig Whyte had seen fit to ignore orders of the Tribunal in relation to the submission of a written response to the Notice of Complaint and in relation to orders compelling his appearance to assist the Tribunal in its enquiries. The Tribunal had been deprived of a rich source of evidence in relation to substantial and important matters as a direct consequence of his failures.

Further, and again most regrettably, Mr Craig Whyte had engaged in attempts to frustrate the disciplinary process with groundless requests for adjournments which when scrutinised had no foundation or merit. He engaged in a disingenuous correspondence in which he claimed to be anxious to put his case to the Tribunal face to face but had singularly failed to do so, citing safety issues. This was the same man who was regularly spotted in public in Scotland and elsewhere.

He engaged in a campaign of derogatory, ill founded and ill judged criticism of the integrity of the Judicial Panel Protocol, its members and the Scottish FA itself. He alleged bias and a lack of fairness.

The Tribunal could come to no other conclusion that his conduct was scandalous and disgraceful and in each case represented a contempt of the proceedings of the most serious kind.

Again, in establishing a suitable sanction the Tribunal required to take the same evidence of his means into account and fined him £50,000 in respect of each order breached.

The Tribunal ordered that the fines totalling £200,000 be paid within thirty days of the determinations and be subject to interest provisions, both being standard fine arrangements.

In addition, however, the Tribunal ordered that the Tribunal determinations against Mr Craig Whyte be registered in the Books of Council and Session for preservation and execution. An extract from the Books of Council and Session has the force of a decree of the court and will be utilised by the Scottish FA as such should recovery procedures against Mr Craig Whyte prove necessary.

In respect that the Tribunal formed the view on the evidence before it that Mr Craig Whyte had brought the game of Association Football in Scotland into disrepute of the most serious kind, and that in doing so he had demonstrated a contempt for the sport and its participants, not least those with affinities to Rangers FC, it considered him unfit to be associated or involved with the sport in any way. It accordingly excluded him for life from participation in Association Football in Scotland.

Concluding Note

This case which called before the Disciplinary Tribunal of the Judicial Panel is remarkable in a number of respects.

It is remarkable that there was scarcely a mention of any person lacing a boot or kicking a football in the course of two days of procedural discussion and four days of evidence and submissions.

It is remarkable that the legal issues involved required consideration of principles of law in which recourse required to be had to cases decided by the Judicial Committee of the House of Lords, the European Court of Human Rights, and the Court of Arbitration for Sport. It required recourse to statutes regulating company law. It required recourse to rules applying to stock exchange business practices and regulation.

It is remarkable for the extent to which it was necessary to apply a technical and legal interpretation of rules and regulations under which the professional game of Association Football is played in Scotland.

It is remarkable that in the course of four days of evidence and submissions there was almost no matter of controversy raised before the Tribunal. The identities of the members of the Tribunal were disclosed to the parties in advance of the Tribunal under a request for the confidentiality for which the Judicial Panel Protocol provides. There was no objection raised by any party to any of the members of the Tribunal sitting in the case, as the Judicial Panel Protocol provides could be have been raised by parties.

It is remarkable that there were no issues at any time raised by any party as to the fairness of any part of the procedure of the Tribunal.

It is remarkable that, at the conclusion of the evidence, the parties who appeared before the Tribunal, were at one in commending to the Tribunal the evidence of the witnesses led on behalf of Rangers FC.

It is remarkable that at the conclusion of the evidence, in their final submissions, the parties who appeared before the Tribunal were agreed upon the legal rules and principles upon which the Tribunal required to make its determination on the evidence.

It is remarkable that in hearing and assessing the evidence led on behalf of Rangers FC from Mr Andrew Dickson CA , Head of Football Administration of Rangers FC, Mr Ken Olverman CA, Financial Controller of Rangers FC, Mr John McClelland, a former Non Executive Director of Rangers FC, and Mr Martin Bain, the former Chief Operations Officer and Executive Director of Rangers FC, the Tribunal itself was satisfied that in all material respects it considered the witnesses were credible and reliable. The Tribunal acknowledged that in some minor respects there were discrepancies and inconsistencies in matters of detail both within a single witness's evidence and as between witnesses, but the overwhelming impression of the Tribunal was that the witnesses who appeared before it were doing their level best to give a true and accurate account of events. The Tribunal considered that in all material respects the evidence of the four witnesses led on behalf of Rangers FC in combination with the documentary evidence produced served to establish a clear and cogent account of events which the Tribunal found proven which is now fully reflected in the Tribunal's Findings in Fact.

It is remarkable that throughout the Judicial Panel Disciplinary Tribunal Process there has been repeated, and regrettably wholly misconceived reference to the Report of Lord Nimmo Smith. For the avoidance of any doubt, the Judicial Panel hearing this disciplinary matter was at no time presented with the report, as evidence or otherwise, nor was it presented with any of its findings. No member of the Tribunal has had sight of it. The report was not mentioned by any party at any time in the course of the proceedings. The determinations which were reached, therefore, were reached entirely independently of any view at which any other person, however senior or eminent, may have arrived in fulfilment of his remit prior to the disciplinary hearing.

It was remarkable that faced with such allegations against him Mr Craig Whyte chose not to engage with the Judicial Panel process to assist it in determining matters which some may consider could affect his reputation and personal and business situation adversely. In dealing with the matter in his absence, however, the Tribunal presumed him to deny a breach of each element of each charge and considered the matter of determination without recourse to its powers to draw adverse inferences from his failure to appear or advance any defence. The Tribunal indeed raised matters favourable to him in his absence, despite that absence or any arguments being raised on his behalf.

It was remarkable that the Tribunal was sitting in determination of matters of professional football regulation of significance during the very days in which the Tribunal, not immune to current events, was aware there were commercial matters of great importance under discussion elsewhere which would no doubt affect the parties. The Tribunal, however, recognised from the outset that its task was a wholly judicial one in determining the particular complaints of breaches of the rules before it according to the relevant rules and the procedures of the Judicial Panel Protocol, and determining upon the evidence which was made available before it what was an appropriate sanction to impose on each party having regard to the nature and degree of the breach of the rules and the circumstances of the party. It recognised that the Tribunal would be in serious error in its judicial function if it engaged in an exercise of speculation about matters such as the terms of possible offers, not yet made, for the purchase of a majority shareholding in Rangers FC, or the response of these unknown offerors to any adverse finding against Rangers FC. The Tribunal would equally have been in serious error if it engaged in an exercise of speculation as to any sanction which might in future matters before football authorities be imposed upon Rangers FC for matters within those authorities' jurisdictions.

The Judicial Panel was established in response to a desire on the part of the member clubs of the Scottish FA to devise a system of regulatory discipline which was organised and run in a fair and independent judicial manner, where disciplinary procedures were agreed and subscribed to and processes were in accordance with widely accepted practices in regulatory matters. With all of the other members of the Scottish FA Rangers FC subscribed to the Judicial Panel Protocol.

It should be wholly unnecessary in any judicial process to provide such an assurance, but for the avoidance of any doubt, and in light of public confusion as to the operation of the Judicial Panel Protocol, the Tribunal members who heard and determined the complaints against Rangers FC and Mr Craig Whyte were never at any time prior to, or during the hearing the subject of any contact by The Scottish FA (including the Scottish FA Compliance Officer) upon the matters to be determined, and no attempt was made at any time by any officer, executive, member or any employee of the Scottish FA, or indeed any other person, to influence the outcome of the Disciplinary Hearing. Had any such approach or attempt been made the matter would have been scandalous, corrupt and improper and would have been reported immediately both officially and publicly.

Throughout the disciplinary process the Scottish FA have adhered strictly and properly to the Judicial Panel Protocol agreed by all member clubs, including Rangers FC.

Gary Allan QC
Tribunal Chairman
30 April 2012
