

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

B E T W E E N :-

THE FOOTBALL ASSOCIATION

and

KYNAN ISAAC

DECISION AND WRITTEN REASONS
OF THE INDEPENDENT REGULATORY COMMISSION

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| Regulatory Commission: | Graeme McPherson KC (Chairperson) Alison Royston Stuart Ripley |
| Secretary to Regulatory Commission: | Michael O'Connor (Lead Judicial Services Officer) |
| Date: | 11 October 2022 |
| Venue: | Remote |
| Appearances: | None – paper hearing |

(A) Introduction

- 1) By letter dated 11 August 2022 the Football Association (*'the FA'*) charged Kynan Isaac (*'KI'*) as follows:
 - a) That contrary to FA Rule E5.1 he directly sought to influence for an improper purpose the result, progress, conduct or other aspects of or occurrences in a football match or competition, in that he influenced a football betting market during Stratford Town FC v Shrewsbury Town FC on 7 November 2021 by intentionally seeking to be cautioned by the match referee (*'Charge 1'*)
 - b) That contrary to FA Rule F3 he failed to comply with a requirement under FA Rule F2 by failing to provide to the FA (1) information during an interview on 24 March 2022, and/or (2) itemised telephone billing records, and/or (3) details of his internet service provider (*'Charge 2'*)
 - c) That contrary to FA Rule E1(b) he placed, permitted or caused or enabled 347 bets on football matches between 14 August 2016 and 6 November 2021 while a Participant at different clubs, contrary to FA Rule 8(1)(a)(i)/FA Rule E8.1 (*'Charges 3-349'*).
- 2) With the Charges the FA served a considerable volume of evidence. That evidence included
 - a) Witness statements from Tom Astley (*'TA'*), a Betting Integrity Investigator employed by the FA. TA's witness statements exhibited betting data and other information and documentation relevant to the Charges
 - b) A witness statement from the match referee Ben Toner (*'the referee'*)
 - c) An analysis of KI's conduct during the match carried out by *'Stats Perform'*
 - d) Interviews conducted with KI and 4 other individuals. Since none of those other individuals are the subject of any charges we consider it appropriate to preserve their

anonymity in this Decision. We therefore refer to those individuals by their initials only - ‘*CI*’, ‘*JT*’, ‘*DG*’ and ‘*DM*’¹

- e) Documents
 - i) Evidencing ‘connections’ between KI and various relevant individuals
 - ii) Evidencing communications between KI and various relevant individuals
 - iii) Evidencing the betting habits and patterns of various relevant individuals.
- 3) KI responded to receipt of the Charges by email on 19 August 2022. In that email he denied the Charges and requested time to respond and prepare evidence to rebut the Charges.² An extension of time was therefore granted to enable KI to take such steps.
- 4) However, since that time KI has not engaged with the FA or the Charges at all - efforts by the FA to contact him have met with no response, and KI has not served any formal response to the Charges or any documentary or witness evidence responding to any of the Charges or to support his previous denials of any wrongdoing. As a result, on 13 September 2022 the Chairperson of this Regulatory Commission directed that, unless KI took such steps by 23 September 2022, the FA should proceed with the Charges on the basis
 - a) That KI denies the Charges, but
 - b) That KI has provided no explanation for that denial, and no documentary or witness evidence in support of that denial, beyond that provided during the course of the FA’s investigations.
- 5) KI did not take such steps by that date or at all. The FA therefore proceeded with the Charges and a date was fixed for us to consider and determine the Charges at a paper hearing. KI was told that the Charges would be determined at a paper hearing, and was told of the date for which the paper hearing had been fixed, but still did not engage.

¹ We also refer below to 4 further individuals who we identify in this Decision and Written Reasons as ‘*LM*’, ‘*DG2*’, ‘*VS*’ and ‘*LHT*’. Since it is relevant to Charge 1, we note that (1) CI and KI are related to one another, (2) DM and LM are related to one another (3) DG and DG2 are related to one another.

² KI had taken a similar approach at a hearing that took place before us on 5 August 2022. At that hearing the FA sought an Interim Suspension Order (‘*an ISO*’) against KI. In opposing the FA’s ISO Application KI made it clear that he intended to deny the Charges that were at that time still to be served for the reasons that we set out in our Decision and Written Reasons granting the ISO.

- 6) We met remotely to consider the Charges on 10 October 2022. No representative from the FA attended and KI made no attempt to attend. We considered at the outset of our deliberations whether we considered it appropriate to proceed by way of a paper hearing, rather than an oral hearing. We concluded that, given
- a) The comprehensive manner in which the FA had set out its case through TA's witness statements and exhibits
 - b) The fact that the FA had set out how it contended the evidence made out each of the Charges in detailed Written Submissions
 - c) KI's unwillingness to participate in the disciplinary process in any way
- it was appropriate for us to do so. And so that is how we proceeded.

- 7) When considering the Charges we proceeded on the basis that
- a) Each of the Charges had been denied by KI, and so
 - b) It was for the FA to satisfy us to the requisite standard that each Charge was proved on the basis of the evidence upon which it relied.

Because KI did not attend the hearing or seek himself to challenge the evidence presented by the FA in support of the Charges, we scrutinised that evidence ourselves with considerable care. We confirm that we considered with care the entirety of the documentary evidence (including the witness statements and interview transcripts as well as footage of the incident that led to KI receiving a yellow card during the match) that was placed before us, as well as the FA's written case on Breach and Sanction. We summarise below the matters that we consider to be the most important for the purpose of the Charges. However, we make clear that the fact that we have not expressly referenced every document placed before us and every submission made to us does not mean that they have not received proper consideration and scrutiny.

- 8) And before we leave this section of our Decision and Written Reasons
- a) We confirm that in reaching our decision we reminded ourselves not just of where the burden of proving guilt lay, but also of the standard to which guilt must be proved. While the test is 'balance of probabilities', in a case such as this, where serious allegations of (effectively) dishonesty are made against KI, cogent evidence must exist for us to be satisfied that the requisite standard of proof has been reached

b) In light of how the FA sought to prove its case on Charge 1, we make reference to the guidance given in relation to the treatment of circumstantial evidence

i) by Bryan J in *JSC BM Bank v Kekhman* [2018] EWHC 791 (Comm): ‘*The nature of circumstantial evidence is that its effect is cumulative, and the essence of a successful case based on circumstantial evidence is that the whole is stronger than individual parts*

ii) by Rix LJ in *JSC BTA Bank v Ablyazov* [2012] EWCA Civ 1411: ‘*it is however the essence of a successful case of circumstantial evidence that the whole is stronger than individual parts. It becomes a net from which there is no escape*’.

We kept such principles very much in mind when determining Charge 1.

(B) Background to Charge 1

i) Introduction

9) On 7 November 2021 Stratford Town FC (*‘STFC’*) played Shrewsbury Town FC in the FA Cup 1st Round (*‘the match’*). KI played for STFC in the match.

10) Charge 1 has at its heart 2 undisputed facts:

- a) First, that prior to the match a number of individuals placed bets on KI being ‘carded’ (shown a yellow or red card) during the match
- b) Secondly, that during the match KI was in fact shown a yellow card.

11) The FA’s case is that those facts have a causal connection between them – in particular

- a) That KI was aware that bets would be placed/had been placed on him being carded during the game by individuals directly or indirectly known to him, and
- b) That to ensure that those bets were successful, KI intentionally set out to get carded during the match.

12) KI denies any connection between the above facts. He denies that he was aware prior to the match that anyone had bet on him to be carded during the match. He denies that he set out to be carded during the match.

ii) Key underlying facts in a little more detail

13) On 19 October 2021 the match was selected to be televised on ITV4. The significance of that fact is that various betting markets were consequently formed on the match. One of the

available markets enabled individuals to bet on whether a particular player would be ‘carded’ (i.e. be shown a yellow or red card) during the match. One of those players on whom such a bet could be placed was KI - it was possible for individuals to bet on whether KI would be carded during the match.

14) Four individuals – DM, JT, DG and LM – did place bets on KI to be carded:

- a) DM placed 2 bets, each of £200, on KI to be carded. Those bets were placed at 19.13.20 and 19.13.47 on 6 November 2021 (i.e. the evening before the match)
- b) DG placed a bet of £250 on KI to be carded. That bet was placed at 19.52 on 6 November 2021
- c) JT placed a bet of £700 on KI to be carded. That bet was placed at 19.57 on 6 November 2021
- d) LM placed a bet of £10 on KI to be shown a red card. That bet was placed at 10.56 on 7 November 2021 (i.e. the morning of the match).

15) KI was in fact ‘carded’ during the match. In the 84th minute KI made a strong challenge on a Shrewsbury Town player (*‘the challenge’*) which the referee determined merited a yellow card. Having reviewed the challenge a number of times on television after the match, the referee

- a) Concluded that the challenge had in fact *‘ticked all the boxes for a red card. The height of the challenge was nearly knee high, with studs showing and a straight leg. There was also a lot of force in the challenge and it was at high speed. KI’s back was also turned to the player he tackled, which can sometimes be a sign that a player is trying to do damage to other players’* and
- b) Decided that he ought with hindsight to have shown KI a red card.

On any view, the challenge that led to KI being carded during the match was a very bad tackle.

iii) The FA is alerted to suspicious betting patterns

16) On 9 November 2021 the FA was contacted by the Gambling Commission’s Sports Betting Intelligence Unit and informed that a betting alert had been raised with the International Betting Integrity Association by Skybet concerning bets placed on KI to be carded during the match. On 11 November 2021 Skybet notified the FA directly of its concerns.

17) Data provided by Skybet was helpfully analysed by TA. We accept the accuracy of both the data and the analysis – there was no reason for us not to do so. That data and analysis reveals the following:

- a) A total of 19 bets were placed on STFC to be carded during the match, with total stakes of £2,016.50
 - i) Of those 19 bets, 14 were bets on KI to be carded. The next highest number of bets placed on any other player was 2 bets
 - ii) Of the total stakes bet on the ‘to be carded’ market, £1,516.50 was bet on KI to be carded. The next highest amount staked on any other player was £465.00

- b) Of the sum of £1,516.50 bet on KI to be carded
 - i) £1,462.50 was bet in a 53 minute window between 19.04 and 19.57 on 6 November 2021
 - ii) £1,350 of that sum was bet by DM, DG and JT

- c) Prior to staking the 2 x £200 bets on KI to be carded
 - i) DM had placed a total of 25 bets through his Skybet account since the account had been opened on 17 September 2019
 - ii) Those 25 bets had been for a total stake of £41, with an average stake of £1.64 per bet
 - iii) The largest bet placed by DM through his Skybet account had been £20
 - iv) DM had never previously placed a bet on the ‘to be carded’ market

- d) Prior to staking the £250 bet on KI to be carded
 - i) DG had placed a total of 848 bets through his Skybet account since the account had been opened on 17 January 2017
 - ii) Those 848 bets had been for an average stake of £6.28 per bet
 - iii) The highest sum staked by DG through his Skybet account had been £500
 - iv) DG had previously placed 2 bets on the ‘to be carded’ market

- e) Prior to staking the £700 bet on KI to be carded
 - i) JT had placed a total of 487 bets through his Skybet account since the account had been opened on 1 September 2020

- ii) Those 487 bets had been for an average stake of £4.51 per bet
- iii) The largest bet placed by JT through his Skybet account had been £250
- iv) JT had never previously placed a bet on the 'to be carded' market.

18) TA's evidence was to the effect that the above analysis of the Skybet accounts of DM, DG and JT

- a) Demonstrates that the bets were atypical for each individual i.e. not the type of bets usually placed by DM, DG or JT
- b) Suggested an unusually high degree of confidence on the part of each of DM, DG and JT that the bets would be successful (because the stakes were so much higher than those usually risked by DM, DG and JT)
- c) Raises suspicions about each of the bets placed by DM, DG and JT.

19) We agree with TA's views. The fact that DM, DG and JT placed the bets that they did, when they did, raises considerable suspicions about those bets.

iv) Further 'features' of the bets

20) The FA's evidence also flagged a number of other features of the bets placed on KI to be carded:

- a) DM's, DG's and JT's bets were each placed online through Skybet accounts
- b) DM's, DG's and JT's bets were each placed within a 53-minute window on the evening before the match
- c) Although each of the bets was successful (in that KI was indeed carded during the match), Skybet refused to pay out on the bets. Perhaps surprisingly if the bets were indeed innocently placed, none of DM, DG or JT appear to have challenged that refusal in terribly vigorous terms, despite DM being 'owed' £1,800, DG being 'owed' £1,125 and JT being 'owed' £3,150. DM is the only individual of whom we have any evidence (from him in interview) of the matter being raised with Skybet at all
- d) DM's bets (and LM's bet on 7 November 2021) were placed
 - i) Through the same IP Address

- ii) Through an IP Address that was used to place one (but only one) previous bet through KI's own betting account (in September 2021) – although as the FA candidly accepts, it is unlikely that KI (or CI) placed that bet, since each of KI and CI were playing in fixtures some distance away from the location of the IP Address very shortly after the bet was placed
- e) We refer to that IP address as '*the 82 IP address*'. The 82 IP address was analysed by the FA:
 - i) When initial analysis was carried out in January 2022 the location of the 82 IP address was identified as Oxfordshire
 - ii) When subsequently analysis was carried out in April 2022 the location of the 82 IP address was identified as Swindon
 - iii) The 82 IP address therefore appears to have been a dynamic IP address.

v) Connections between KI, DM, DG, JT, LM

21) The FA has endeavoured to establish what connections, if any

- a) Link DM, DG, JT and LM, and
- b) Link KI to all or any of those individuals.

The FA has done so (1) by examining KI's mobile phone, including his messaging history (2) by examining publicly available sources of information, such as social media, and (3) by interviewing the relevant individuals. However, although KI, DG and JT were all interviewed (i) DM initially refused to be interviewed at all, and when he did finally consent to meet with the FA, refused to answer questions during interview – he simply read out a short, pre-prepared statement, and (ii) LM has not responded to the FA's attempts to interview him.

a) Analysis of KI's mobile phone

22) Analysis of KI's mobile phone revealed the existence of a WhatsApp group called '*My Mates*'. The members of that group includes CI and DM. Messages exchanged between the group often discuss the placing of bets, including on football.

23) On 19 October 2021, shortly after the match was identified as one that would be televised (but well before any betting market was formed), KI shared a screenshot of that fact with

the My Mates group. Between 23.21.41 and 23.32.55 (a period of approximately 11 minutes) the following exchange (*'the Exchange'*) occurred:

CI: '@Kynan odds on you getting booked'

KI: 'Hahahahaha'

KI: 'Just lemme know what you need'

CI: '[Crying with laughter emojis]'

CI: '[Handshake emojis]'

KI: 'Cause we're gonna get slapped'

KI: 'So might as well pay the bills off it'

CI: 'Might as well'

CI: 'Its only right'

KI: '[Crying with laughter emojis] trust me'

24) The FA describes that Exchange as *'unequivocal – KI is openly discussing getting carded [in the match] with the intention of making money off the bets'*.

25) KI has not been interviewed in respect of that Exchange – when first interviewed on 13 January 2022 the Exchange had not yet come to light, and when subsequently interviewed on 24 March 2022 KI refused to answer questions from the FA. However, in response to the ISO Application KI described the Exchange as being nothing more than banter between friends.

26) Taken in isolation we can see that the Exchange might be consistent with being banter between friends. However, when viewed alongside the events which subsequently occurred on 6 and 7 November 2021, that explanation becomes far less plausible. While it was not the FA's case that the Exchange on 19 October 2021 itself necessarily represented a concluded plan in which

- a) Bets would be placed on KI to be carded during the match, and
- b) KI would then ensure that he was indeed carded during the match.

the FA relied on the Exchange both as evidence that such a plan was 'hatched' and as evidence of the involvement of KI and DM in such a plan. As we set out below, we concur with that view.

b) Relationships between KI, CI, DM, LM, DG, DG2 & JT

27) The nature and extent of the relationships between the various key individuals can to a greater or lesser degree be ascertained from 2 distinct sources:

- a) Their social media profiles
- b) Interviews conducted by the FA.

We summarise what we conclude can be ascertained from those sources as follows.

28) KI and CI are related to one another. They live close to one another in Oxford. In interview

- a) Each obviously admitted to knowing and communicating regularly with the other
- b) KI admitted knowing that CI bet, but denied having any communication with CI about betting on any aspect of the match.

29) KI and DM are friends on Facebook. With CI, they are members of the My Mates WhatsApp group. They live close to one another in Oxford. In interview

- a) KI admitted knowing DM. He described DM as a friend of CI and as an individual to whom he spoke/communicated from time to time, but not someone with whom he would socialise independently of CI. He denied having spoken to DM in the build up to the match. He denied knowing that DM was intending to bet, or had bet, on him to be carded during the match, although he acknowledged that he knew DM and CI bet together. He explained that he was '*pissed off*' to learn that DM had bet on him to be carded, and told the FA that he would be speaking to DM about it
- b) DM initially refused to be interviewed at all. When he subsequently agreed to meet with the FA he refused to answer questions and instead read a pre-prepared statement. That statement explained that DM had placed bets on KI to be carded during the match because '*I thought the odds were ridiculous for a player who has a bad track record and known for getting bookings and red cards whether they're for fouls or dissent. The bets that were placed were made by only me and for only me*'. DM said nothing during the interview from which anything about his relationship with KI or CI could be ascertained.

30) Although he was not expressly asked about LM, we infer that KI would know LM.

31) During interview KI

- a) Denied knowing DG – '*I've never heard of him in my life*'. KI was not asked about DG2. However, because of the connections that have subsequently come to light

between (i) KI and LHT (who according to CI are close friends, (ii) LHT and DG2 (who are co-directors of 2 Oxford-based companies), and (iii) DG and DG2 (who are related), it seems plausible that KI and DG2 might well know one another

b) Denied knowing JT – *‘I don’t know who he is’*.

32) CI and DM are longstanding friends. In interview

a) CI explained that he and DM had access to each other’s betting accounts, although CI denied ever placing a bet through DM’s (or anyone else’s) account

b) CI denied knowing before the match that DM had bet, or would be betting, on KI to be carded during the match. That was something that CI claimed to have learned only after the match

c) CI denied being present with DM at the time when DM placed his bets on KI to be carded at shortly around 7.13pm on 6 November 2021. CI explained

i) That he had played in a match in north-west London on 6 November 2021 that had kicked off at 3pm

ii) That he would not have left that match until close to 6pm, and would not have reached home until about 8pm.

33) Also during his interview CI

a) Admitted knowing LM through his friendship with DM

b) Denied knowing JT

c) Denied knowing VS

d) Denied knowing DG, although he admitted knowing DG2:

i) CI described DG2 as being a friend of LHT, who was in turn a friend of KI

ii) CI described DG2 and LHT as being co-directors of 2 Oxford-based companies

e) Answered questions about the Exchange. He described KI as *‘joking’* in the Exchange – CI did not consider that the Exchange was something to be taken seriously or at face value, it was just *‘banter, a joke, a laugh’*.

34) DG was interviewed:

a) DG lives close to KI and CI in Oxford

- b) DG denied having ever spoke with KI, although he had seen KI play because DG had had relations play in matches against KI
- c) DG was aware that KI lived near him. DG had also come across KI's father in the past
- d) As regards betting
 - i) DG considers himself to be a 'savvy bettor', a 'stat man', predominantly focussing on football
 - ii) DG explained that he would stake £500 infrequently but he would '*bang on the high ones when I feel I've got a real good chance of it*'
 - iii) DG confirmed that no one other than DG would bet through his Skybet account, although he might occasionally place a bet for his wife
- e) As regards the bet placed on KI to be carded, DG explained that he placed that bet because '*he knew KI was playing Shrewsbury and knew for a fact that he would get carded because he's absolutely filthy ... [the bet] was like a gimme ... as soon as I saw KI's name there, at 3-1 on that, ... if I'd had £500 I'd have banged that on that. Without a doubt ... Everyone in Oxford knows how dirty a player [KI] is, how filthy he is*'
- f) DG admitted knowing that an acquaintance (whose name he did not know, only a nickname) had bet on KI to be carded in a bookmakers, but denied knowing anyone who had bet online on KI to be carded
- g) DG did not identify DG2 as being a friend of KI. However
 - i) DG2 has interacted with KI on Twitter
 - ii) As above, DG2 and LHT (who is a friend of KI) are co-directors of 2 companies

35) There is nothing to connect JT to KI. According to JT's interview

- a) JT lives in Swindon
- b) On the evening of 6 November 2021 JT had been in a restaurant in Swindon owned by VS. Although employed in that restaurant, his recollection was that he had simply been eating there that evening rather than working
- c) VS has (and had) some connection with football, although the details of that connection are vague
- d) While the bet on KI to be carded was placed by him, through his Skybet account
 - i) The stake for the bet was provided by VS
 - ii) VS asked JT to place the bet for him (as VS had done on a '*handful*' of previous occasions, albeit that previous bets had been single bets and accumulators)

iii) JT's belief was that VS had asked him to place the bet because VS had 'hit his limit' on his own account

e) When VS had subsequently learned that Skybet was not paying out on the bet, VS did little to challenge Skybet.

36) Nothing is known about VS' relationships with any other individual involved in this matter.

37) Relatively little is known about LM's relationships with other relevant individuals (other than the fact that he is related to DM), since LM refused to be interviewed.³ However, it does appear

- a) That KI, CI and LM are friends on Facebook
- b) That they live close to one another in Oxford
- c) That DM and LM share an address in Oxford
- d) That (at least through DM) LM knows CI and KI.

vi) KI's involvement and performance in the match

38) During interview KI sought to suggest that it was only in the hours before the match that he knew whether or not he would be playing at all. If true, that might be said to undermine a suggestion that he (and/or others) knew on the evening of 6 November 2021 that KI would be carded during the match, since if KI was not in fact selected to play in the match

- a) KI could not be carded, and so
- b) The bets would be lost.

39) We accept that the final team selection might not have been published until the day of the match. However, in our view KI's suggestions during his interview that he was unsure until shortly before the match whether or not he would be playing were untrue and intended to mislead. He was (in his own words) '*one of the better players in non-league*'. He had been a fixture in the STFC team that season. Others gave evidence in interview that, provided he was fit, KI was bound to play in the match. Although he may have been suffering an injury in the run up to the match, by the evening of 6 November 2021 (at which time KI, together

³ And as a result, there is no evidence as to why on 7 November 2022 LM decided to bet £10 on KI receiving a red card during the match

with the rest of the ST squad, were staying in a hotel in Stratford) KI would have known that he was fit enough to play – and so that in reality he was bound to be playing.⁴

40) That KI was carded during the match is not in dispute. However, the FA’s case is of course that KI deliberately and intentionally took steps to ensure that he was carded during the match. To support that position the FA presented before us analysis of KI’s actions during the match from Stats Perform in the form of a Performance Integrity Report. That Report

- a) Identifies nothing of note in the first half of the match
- b) Identifies a foul challenge by KI in the 64th minute⁵
 - i) Which ‘*looks a possible yellow card offence*’ (but for which a card was not shown)
 - ii) Which resulted in the referee speaking to KI
- c) Identifies an ‘*aerial duel featuring*’ KI in the 67th minute during which KI receives a blow to the face and following which KI receives medical attention. We return to the significance of this below
- d) Identifies a foul challenge by KI in the 77th minute which ‘*appeared a possible yellow card offence*’ (but for which a card was not shown)
- e) Identifies a foul challenge by KI in the 80th minute
- f) Identifies a strong (but not foul) challenge by KI in the 82nd minute
- g) Identifies the foul challenge in the 83rd minute which resulted in KI being carded. The Report concludes ‘*[the challenge] looks deserving of at least a yellow card and potentially a red card ... The motivation for such an aggressive challenge is hard to understand given (a) the game was effectively over as a contest with Shrewsbury*

⁴ That was not the only occasion on which in our view KI sought to mislead the FA during his interview. He was asked about where he had been on the evening of 6 November 2021. His initial answer – that he had been out with his mother – was incorrect; he had been in Stratford at a hotel with his teammates. He also sought to mislead the FA about his own betting habits – see below.

⁵ That challenge occurred very shortly after STFC had gone 4-1 down in the match, effectively ending it as a contest.

leading 1-4 and only around 7 minutes remaining, and (b) the potential benefit to his team. Considering that [KI] had already made one bad foul after receiving a warning from the referee it is highly likely that [KI] would have been aware that a challenge of this nature would have resulted in at least a yellow card'

h) Identifies an opportunity in the 89th minute for KI to make a challenge, which he does not in fact make.

41) The Stats Perform Performance Integrity Report also contains an analysis of KI's disciplinary history prior to the match. In summary

- a) In the 2020/21 season KI received 1 yellow card in 9 appearances, equating to 1 card for every 652 minutes played by KI
- b) In the 12 matches played by KI during 2021/22 season prior to the match KI received 7 yellow cards and 1 straight red card, equating to 1 card for every 126 minutes played by KI
- c) KI had received a yellow card in each of the 3 league matches prior to the match.

42) The FA's case is of course that KI deliberately acted as he did during the match with the intention of being carded, knowing that as a result third parties would benefit financially from having bet on that event occurring. KI denies so acting. In support of that denial, and to rebut any inference that the challenge in the 83rd minute was intended to result in him being shown a card, he has suggested a number of 'innocent' explanations both for any increase in the aggression of his playing style in the final 25 minutes or so of the match and for the poor challenge that led to him being carded:

- a) First, his overall disciplinary record. During interview KI described himself as a player who *'plays on the edge'*, who likes to tackle and who *'doesn't mind getting a bit tasty'*. KI's disciplinary record bears that out; as above, being carded was a regular occurrence for KI. For KI to receive a card during a match is therefore perhaps less remarkable that might be the case for other players
- b) Secondly, the fact that he received a blow to the face during the aerial collision that occurred 67th minute. The consequence of that, KI says, was twofold:
 - i) First, he was angry, increasing his level of aggression when tackling

ii) Secondly, his vision was compromised, meaning that he was able to time tackles less well.

However, we are sceptical about those matters. The challenge that led to KI being booked was 15 minutes or so after he had received the blow to the face in the 67th minute. In the interim he had played well; in particular, as the Stats Perform Performance Integrity Report shows KI had timed one difficult tackle well. The challenge that led to KI being carded was not on the player that had landed the blow on KI's face

c) Thirdly, that he was unlucky to be carded, in that the challenge which led to him being carded was not in truth a particularly bad one. We disagree, and the fact that KI sought to make that argument in interview troubles us. The challenge was indeed a bad one, easily worthy of a yellow card. For KI to not accept that suggests to us that he was trying to downplay the significance of the challenge and do what he could to deter the FA from concluding that the challenge had been intentionally and deliberately bad.

43) And KI also drew attention in his 13 January 2021 interview to a further matter which, it might be said, would if true suggest that he was not intent on being carded at all costs before the end of the match, namely that after he received a blow to the face in the 67th minute

- a) He informed the STFC bench that he could not see properly and should be taken off, but
- b) He was told by the manager that he could not be substituted off because STFC had used all of its permitted replacements.

If true, KI's wish to be substituted off without at that time having been carded (and the fact that he continued in the match only because circumstances meant that he could not be substituted off) might be said to be inconsistent with the FA's case that KI and others had agreed that KI would ensure that he was carded during the match to enable financial gain to be made.

44) However

- a) What KI describes as having happened is not something that was observed from the footage by Stats Perform. There is nothing in the Stats Perform report which evidences or supports an apparent desire on KI's part to be substituted off after receiving a blow to the face in the 67th minute

- b) There was no reason why KI could not have been substituted off following that event if there had been a genuine need or wish to do so:
 - i) STFC appears to have made only 1 substitution before the 67th minute (at half-time). STFC made 2 further substitutions in the 76th and 83rd minutes of the match
 - ii) Given that Shrewsbury Town made 4 substitutions, it was not correct that STFC were unable to make a further substitution (and STFC's line up indicates that there were players on the bench who could have come on if KI really had been unable to continue).

45) In those circumstances we reject KI's assertion that he had tried to have himself substituted off before he was carded. That he claimed during interview to have done so is in our view a further illustration of KI lying in an attempt to attempt to cover up the reality of what occurred during the match.

viii) Adverse inferences from KI's conduct ?

46) As we set out further below when considering Charge 2, the FA has the power to compel Participants to answer questions, provide information and provide documents. In this case, since attending an interview on 13 January 2021 KI

- a) Has refused to answer any further questions about the match or the betting surrounding the match
- b) Has refused to provide telephone billing data
- c) Has generally been obstructive.

That begs the question – to what extent can and should we draw inferences from such conduct that are adverse to KI ?

47) In our view we are well entitled to draw such inferences as we consider appropriate. That is because

- a) There is a positive obligation on KI to provide the same, yet he has refused to comply with the FA's reasonable requests
- b) The matters to which the FA's requests go are plainly matters that call for explanation
- c) The information (and particularly the documentation) that the FA seeks is plainly relevant to such matters. By way of example only
 - i) Phone billing records are likely to demonstrate with whom KI had contact around 6 and 7 November 2021. In turn that may well lead to further lines of investigation

- ii) Given the very real concerns that those placing bets on KI to be carded during the match did so pursuant to a pre-determined arrangement that (1) they would do so, and (2) KI would then ensure that he was then carded during the match, KI's communications with third parties go to the very heart of matters
- iii) KI's failure to provide such records, when they are readily available and he has provided no explanation or excuse for their non-production, entitles us to infer that there is 'something to hide' in those documents.

48) In the circumstances we do therefore draw inferences adverse to KI for the purpose of determining Charge 1 from the fact that he has

- a) Refused to co-operate with the FA's investigations, and
- b) Refused to answer questions, provide information and provide documents reasonably sought from him by the FA.

(C) Conclusions on Charge 1

49) This is in our view an archetypal 'circumstantial evidence' case in which the totality of the strands of evidence, when viewed together, is stronger than its individual parts – and certainly more than strong enough, by quite some margin, to satisfy us that Charge 1 is proven.

50) In reaching that conclusion we had regard to the entirety of the evidence and documents before us, but placed particular weight on the following:

- a) KI's performance during the match. The challenge for which he was booked
 - i) Was not the first poor challenge that he committed towards the end of the match, once it was effectively over as a contest, and
 - ii) Was so blatant and reckless that it is relatively easy to accept that it was committed with the intention of ensuring that KI was carded
- b) KI's attempts to downplay the challenge and to attribute its reckless nature to 'innocent' causes. Those attempts were, we find, attempts to mislead the FA about why he made the challenge as he did during the match
- c) KI's various other inconsistent and misleading replies given to the FA during interview

- d) The ready way in which on 19 October 2021 in the Exchange KI linked
 - i) The availability of a betting market him to be carded during the match, and
 - ii) A means of making money.

Even if the Exchange was at that stage intended as a joke or banter, the very fact that betting on KI being booked was the immediate response to learning that the match would be televised is consistent with the existence of a subsequent arrangement to do exactly that. Bluntly, such a response is not the one that most people would have to learning that a match in which they were likely to play would be televised

- e) The unusual patterns of the bets placed on KI to be carded – in particular
 - i) The tight timeframe in which the majority of the bets were placed
 - ii) The fact that all bets were placed within a tight geographical area
 - iii) The fact that
 - (1) DM had been a party to the Exchange
 - (2) 3 of the bettors (DM, LM and DG) were connected, directly or indirectly, to KI, and
 - (3) Next to nothing is known about the third bettor (JT) or the individual on whose behalf that bet appears to have been placed (VS)
 - iv) The out of character nature of those bets for the individuals concerned
 - v) The confidence with which each bettor bet substantial, out of the ordinary sums – which strongly suggests that the bettors had an extremely high level of belief that the bets would be winning ones

All such matters are strongly suggestive of the bets having been part of a co-ordinated and pre-agreed plan – and a plan which of course required KI to be ‘in’ on the plan

- f) KI’s refusal to engage with the FA’s investigations or co-operate with the FA’s requests for information and documents.

51) Viewed individually, each such matter to a greater or lesser degree raises suspicions. When viewed collectively, only one conclusion can sensibly be drawn. When one steps back and asks whether there is a real possibility that what occurred in this case – the bets being placed on KI to be carded as they were, and KI in fact then being carded as he was – could be explained by mere coincidence, the circumstantial evidence taken as a whole makes it clear

that the possibility of that explanation being the correct one is vanishingly small. What in our view the evidence demonstrates to the requisite standard – and we would go further and say to a very high degree of probability indeed – is that

- a) Before the match KI knew that individuals had bet, or would bet, on him to be carded during the match
- b) KI intentionally sought to be carded during the match so as to enable those individuals to win their bets.

52) It therefore follows that we found Charge 1 proven to the requisite standard.

53) Anyone reading this Decision and Written Reason might be left wondering

- a) Precisely how and when ‘the plan’ was hatched, developed and finalised, and
- b) Precisely which individuals were party to the plan.

Absent further investigation and frank co-operation by all of those potentially involved, we doubt that will ever be known with certainty. However, for present purposes, unsatisfactory though it might seem, it does not matter. What matters is whether (in the words of Charge 1) KI influenced a football betting market during the match by intentionally seeking to be carded. And as we have set out above, our conclusion is that KI did so.

(D) Charge 2

54) FA Rule F2 empowers the FA, in carrying out its functions under FA Rule F1, to require any Participant upon reasonable notice

- a) to attend to answer questions and provide information
- b) to provide documents, information or any other material of any nature held by the Participant
- c) to procure and provide to the FA documents, information and any other material of any nature which the Participant has power to obtain.

55) Charge 2 alleges 3 specific failures on the part of KI to comply with relevant requests by the FA, albeit against a background (it is said) of wider non-cooperation and obstructive behaviour. The facts and matters relied on by the FA to support Charge 2 are set out in TA’s 4th statement dated 29 April 2022.

i) The 24 March 2022 interview

56) Having interviewed KI on 13 January 2022, the FA required KI to attend a second interview, which was arranged for 24 March 2022.

57) KI did attend that second interview on 24 March 2022. However, he was obstructive (both in the run up to that second interview and at the second interview itself) and refused to answer the FA's questions. The interview was accordingly terminated after 11 minutes.

58) That conduct was unacceptable and in our view certainly amounts to a breach of FA Rule F2 for the purpose of Charge 2. The FA's investigations between KI's first interview (on 13 January 2022) and 24 March 2022 had revealed a considerable amount of new information and the FA was well-entitled to seek to interview KI again for the purpose of putting the same to him and making further enquiries of KI in the light of that information. As a Participant KI was obliged to co-operate with that process. In light of his refusal to do so we find the relevant breach of FA Rule F2 proven.

ii) Itemised telephone billing

59) During the 13 January 2022 interview the FA requested KI to provide itemised telephone records. That request was subsequently repeated on a number of occasions by email. We have already indicated above the relevance and potential importance of that material to the subject matter of Charge 1.

60) KI has failed to provide the requested records. Initially he purported to explain the delay in providing those records as being the result of a failure by his mobile provider to provide the relevant records to him.⁶ More recently however he has simply failed to respond to the FA's continued requests.

61) We find the relevant breach of FA Rule F2 proven.

iii) Details of internet service provider

62) The FA requested that KI provide details of his internet service provider. That information was required to assist the FA to identify the devices (and the location of the devices) used to place the bets on KI being carded.

⁶ Although as the FA point out, such records are readily accessible by users from their mobile provider's website.

63) In interview on 13 January 2022 KI stated that he was unable to remember which internet service provider provided broadband to his home address. Numerous subsequent requests for that information have gone unanswered and ignored.

64) Once again, KI's conduct in refusing to provide the relevant information was unacceptable; the information could and should have been provided. We find the relevant breach of FA Rule F2 proven.

iv) KI's wider conduct in connection with the investigation

65) Although not forming any part of Charge 2, the FA does rely on KI's wider conduct in connection with the investigation of the matters underpinning Charge 1 and Charge 3 as an aggravating feature of this case. We agree with the FA's position in that regard. Without dwelling unnecessarily on detail, it is clear from the correspondence and the chronology of events in relation to this case

- a) That KI has rarely done what he has been asked to do, or even what he has said he will do, within a requested or promised timeframe
- b) That KI has generally been un-cooperative
- c) That KI has simply ignored requests and correspondence when it has suited him – his behaviour since receipt of the Charges being a prime example of this.

66) The FA also submitted that we should also draw inferences in this regard from exchanges between KI and a third party discovered in KI's WhatsApp messages. In those exchanges KI stated that he was going to 'check' his messages before his interview with the FA on 13 January 2022, and the FA invites us to infer from that that KI subsequently took steps to prevent the FA from uncovering his misconduct, for example by concealing or deleting incriminating messages.

67) That in our view is a step too far. While KI may well have checked his WhatsApp and messaging history before that interview, and may possibly have deleted messages, there is no actual evidence that he took either step. And in the absence of any such evidence, we felt unable to draw an inference that KI was likely to have done so based on mere suspicion alone.

(E) Charge 3

i) The relevant Rules⁷

68) FA Rule E8(1) prohibits any Participant

- a) From betting, either directly or indirectly, or
- b) From instructing, permitting, causing or enabling any person to bet on (i) the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition, or (ii) any other matter concerning or related to football anywhere in the world, including for example and without limitation, the transfer of players, employment of managers, team selection or disciplinary matters.

ii) KI's playing career during the relevant period

69) During the period between 14 August 2016 to 6 November 2021 KI's playing career was as follows:

- a) 2016/2017 season: registered to Oxford City FC (National League South) and Brackley Town FC (National League North)
- b) 2017/2018 season: registered to Aylesbury United FC (Southern League Division One Central)
- c) 2018/2019 season: dual registered to STFC (Southern League Premier Division Central) and Leighton Town FC (Spartan South Midlands League Premier Division)
- d) 2019/20 season: registered to STFC (Southern League Premier Division Central), North Leigh FC (Southern League Division One Central) and Banbury United FC (Southern League Premier Division Central)
- e) 2020/2021 season: dual registered to STFC (Southern League Premier Division Central) and Ardley United FC (Hellenic League Premier Division)
- f) 2021/2022 season: registered to STFC (Southern League Premier Division Central).

KI was accordingly a Participant at all times material to Charge 3.

iii) KI's betting history

70) During interview KI accepted that between 14 August 2016 and 6 November 2021

- a) He had operated 2 different betting accounts, and
- b) He had placed numerous bets on football through those betting accounts.

⁷ As the FA set out in its Note, the actual Rules changed very slightly from season to season during the period relevant to Charges 3-349. However, the substance of the relevant Rules remained the same throughout that 5 year period.

71) According to TA's analysis of the betting data (the accuracy of which we accept) across the entirety of the period from 14 August 2016 to 6 November 2021:

- a) 347 bets were placed through those betting accounts in breach of FA Rule E8(1)
- b) A total of £2,827.13 was bet, showing a net loss of £1,004.97.

72) Those bets have been broken down by the FA as follows:

a) 2016/2017 season:

- i) 9 bets in breach of FA Rule E8(1)
- ii) Total stakes of £168.75, showing a net loss of £85.00

b) 2017/2018 season:

- i) 28 bets in breach of FA Rule E8(1)
- ii) Total stakes of £192.41, showing a net profit of £299.69

c) 2018/2019 season:

- i) 78 bets in breach of FA Rule E8(1)
- ii) Total stakes of £574.43, showing a net loss of £420.51

d) 2019/2020 season:

- i) 70 bets in breach of FA Rule E8(1)
- ii) Total stakes of £386.16, showing a net loss of £187.89

e) 2020/2021 season:

- i) 76 bets in breach of FA Rule E8(1)
- ii) Total stakes of £677.72, showing a net loss of £396.26

f) 2021/2022 season:

- i) 86 bets in breach of FA Rule E8(1)
- ii) Total stakes of £827.66, showing a net loss of £255.00

73) Of the 347 total bets placed through KI's betting accounts, 50 bets were on games in competitions in which KI's club(s) were participating in the relevant season. Of those 50

bets, 10 bets were on KI's own club (always as part of an accumulator bet). Of those 10 bets, 6 bets were against KI's own club. KI played in 4 of the games on which bets were placed on his own team.

iv) KI's position

74) During his interview on 13 January 2022 KI was asked at length about his betting habits and the betting history summarised above. In summary:

- a) He accepted that he had (and had for some time had) a number of betting accounts through which he had placed bets on various sports, but principally football
- b) He explained that while he had been aware that 'higher level' Participants were prohibited from betting on football, he had not realised that non-league players like him were prohibited from betting on football
- c) He agreed that while the majority of the bets identified by the FA were likely to have been his⁸
 - i) Two other individuals (CI and another relation 'AP') had access to his accounts (including having his password) and used those accounts
 - ii) Some of the bets – perhaps 30% - were likely to have been placed by CI and AP
- d) As regards the bets on KI's own clubs
 - i) KI expressly denied that certain of those bets had been placed by him
 - ii) KI could not remember others of those bets, but implied that he would not have bet against his own club.

v) The FA's view on KI's position

75) The FA accepts that a very few of the 347 bets are likely to have been placed by individuals other than KI.⁹ However

⁸ KI estimated in the region of 70%

⁹ For example, one bet appears to have been placed at a time when both KI and CI were about to start matches some distance from where the physical location where (according to the IP address) the bet was likely to have been placed, suggesting that the bet must have been placed by someone else.

- a) In interview CI rejected KI's suggestion that he (CI) had used KI's betting accounts to place any bets. CI explained
 - i) That he had started to place bets during lockdown
 - ii) That he had his own betting accounts
 - iii) That his bets were typically one accumulator per weekend, on football and esports

- b) KI's bank statements do not indicate payments being made into that account by CI or AP to fund bets made by them through KI's betting accounts, nor payments being out of that account to CI or AP to reflect winning bets made through KI's betting accounts. KI's explanation for that is that all 'reconciliations' (our word) would have taken place in cash, although (1) there is no evidence of that, and (2) as we have said, CI's evidence contradicts that

- c) Analysis of how the bets were placed indicates
 - i) That 202 of the 347 bets were placed from Virgin Media Broadband IP addresses¹⁰ (*'the Virgin IP Addresses'*) in Oxford, where KI lives
 - ii) That 115 of the 347 bets were placed from various EE wireless Broadband IP addresses (*'the EE IP Addresses'*). EE is the network used by KI for his mobile phone

- d) There appears to be a correlation between the timing of the bets on KI's own clubs and whether or KI was in the squad for the relevant match:
 - i) When KI was not in the squad, bets were placed in the minutes running up to kick-off
 - ii) When KI was playing,¹¹ the bets were placed more than an hour before kick-off via EE wireless broadband.

That, the FA suggests, is entirely consistent with KI being the individual who placed the bets on KI's own team.

¹⁰ Which appears to be KI's internet service provider. Although as we have said above, KI refused to confirm the identity of his broadband provider, the FA has identified from publicly available documents (engagements between KI and Virgin on Twitter) that KI's home broadband appears to be provided by Virgin.

¹¹ KI explained that he would not have been able to place bets on his own club immediately before kick-off if he was playing or in the squad, since he would not have had access to his mobile phone in the minutes before kick-off.

76) We struggled to take at face value KI's protestations that he had never bet on his own club (and thus that any bets on his club(s) must have been placed by someone else):

- a) When asked about such bets, KI told the FA that he would find out who had placed bets on his clubs through his accounts and tell the FA. He has not done so
- b) Although analysis of every bet placed on KI's own club has not been carried out, analysis of one of the bets (on STFC to beat Carlton Town FC in the FA Cup on 4 September 2021) that KI specifically denied placing shows
 - i) That a little less than 2 hours before kick-off KI sent WhatsApp screenshots of (1) betting odds for 10 FA Cup matches taking place that afternoon, including STFC v Carlton Town FC, and (2) odds for Full Time Result, Double Chance, Correct Score and Half Time/Full Time for STFC v Carlton Town FC
 - ii) That a few minutes before kick-off the relevant bet was placed through KI's betting account from KI's Virgin Media Broadband address
 - iii) That CI could not have placed the bet as he was playing football elsewhere.

The likelihood of that bet having been placed by anyone other than KI seems remote.

77) And in our view KI's false protestations that he had not placed bets on his own club rather undermined his claim that he had been unaware that as a non-league player he was prohibited from betting on football; had he truly been ignorant of the prohibition, there would have been no reason for him

- a) To try to seek to distinguish bets on his own club from other bets, or
 - b) To try to persuade the FA that he had not bet on his own club
- since his position in relation to each bet would have been the same, namely '*I did it, but at the time I did it I did not know that it was forbidden*'. The fact that he sought to distance himself from bets placed on his own club suggests that he knew full well that that was a more serious breach of the FA Rules which in turn suggests that he was aware that as a non-league player there were (putting it at the very lowest) rules governing what bets he could and could not place on football.

78) Thus although not necessary for us to make a final finding in such regard, we were extremely sceptical of KI's claims to have been unaware throughout the period August 2016 to November 2021 that he was prohibited from betting on football.

vi) Our conclusions on Charges 3-349

79) The FA proved to our satisfaction that each of the 347 bets placed through KI's betting accounts amounted to a breach by KI of FA Rule E8. While it was not possible to say with certainty

- a) Which of those 347 individual bets had been placed by KI himself, and
- b) Which of those 347 individual bets had been placed by other individuals who KI permitted to use his betting accounts

that is of no consequence for the purposes of Charges 3-349. That is because a Participant is guilty of a breach of FA Rule E8 if he places bets on football or if he permits or enables others to place bets on football. We are however satisfied that the vast majority of those bets were placed by KI himself.

(F) Sanctions

i) Charge 1

80) The FA's position is that

- a) KI's conduct should be viewed as match fixing
- b) Match fixing is the most serious threat to the integrity of the game of football and any sporting competition, since it undermines public trust and confidence in the game
- c) Those who partake in match fixing should be seriously punished
- d) Any punishment must serve as a deterrent for anyone considering engaging in such deleterious conduct.

81) The FA rightly drew our attention to the Sanction Guidelines (*'the Sentencing Guidelines'*) for various forms of Betting and Inside Information cases. It drew particular attention to the following paragraph in the Notes to the Sentencing Guidelines:

'Betting offences are separate and distinct from charges under FA Rule E5 which concerns match fixing. It should be noted that save in exceptional circumstances a Participant found to have engaged in fixing the outcome or conduct of a match would be subject to a lifetime ban from the game.'

In the light of that guidance, the FA submitted that the starting point for sanctioning KI for a breach of FA Rule E5 should be a lifetime suspension; no 'exceptional circumstances' exist in this case.

82) The question of how the Sentencing Guidelines should be applied in a case such as this was considered by the Regulatory Commission (18 April 2018) and the Appeal Board (19 June 2018) in *The Football Association v Bradley Wood*. In that case

- a) It was the FA's case (which the Regulatory Commission found had been proved) that the player had intentionally got himself carded in 2 matches in the knowledge that third parties had bet on that event happening and would profit from him being carded
- b) While referencing the paragraph in the Notes to the Sentencing Guidelines set out above, the Regulatory Commission noted that the function of the Sentencing Guidelines was set out in an earlier paragraph of the Notes to the Sentencing Guidelines in the following terms:

*'The guidelines are not intended to override the discretion of Regulatory Commissions to impose such sanctions as they consider appropriate having regard to the particular facts and circumstances of a case. However, in the interests of consistency it is anticipated that the guidelines will be applied unless the applicable case has some particular characteristic(s) which justifies a greater or lesser sanction outside the guidelines'*¹²

- c) The Regulatory Commission concluded that, for various reasons¹³, it was not appropriate or proportionate to impose a lifetime ban on the player. Instead, it imposed a 5 year suspension on the player. It also imposed a financial penalty
- d) The FA appealed that sanction as being unduly lenient. Its position was that
 - i) There was nothing 'exceptional' in any of the circumstances found by the Regulatory Commission, and so
 - ii) The player ought to have been banned from all football for life
- e) The Appeal Board considered how the Sentencing Guidelines should, when read as a whole, including the Notes, be interpreted. It concluded as follows:

¹² And the other paragraph of the Guidelines states: *'The assessment of the seriousness of the offence will need to take account of the factors set out above. A key aspect is whether the offence creates the perception that the result or any other element of the match may have been affected by the bet, for example because the Participant has bet against himself or his club or on the contrivance of a particular occurrence within the match. Such conduct will be a serious aggravating factor in all cases. A further serious aggravating factor will be where the Participant played or was involved in the match on which the bet was made'*.

¹³ Primarily (1) because the conduct had not been 'match fixing at its most serious', (2) because the player's conduct had not as a matter of fact 'fixed' either match, and (3) there were mitigating circumstances

- i) It is anticipated that the Sentencing Guidelines will be applied by a Regulatory Commission sanctioning for betting and FA Rule E5 offences
 - ii) The Sentencing Guidelines include a range of appropriate penalties and identify a list of relevant factors which should be taken into account when sanctioning for betting offences contrary to FA Rule E8
 - iii) For FA Rule E5 offences, were the participant engaged in fixing the outcome or conduct of a match, the participant would be subject to a lifetime ban from the game unless there were exceptional circumstances
 - iv) But the Sentencing Guidelines do not override the Regulatory Commission's discretion to impose such sanctions as it considers appropriate
 - v) It thus remains open to an individual Regulatory Commission in both an FA Rule E8 or a FA Rule E5 case to depart from the Sentencing Guidelines where some particular characteristic(s) of the case justifies it
- f) The Appeal Board concluded that the FA was correct that none of the circumstances identified by the Regulatory Commission in its Written Reasons (in particular, the fact that the player's conduct had not in fact 'fixed' the match or had any consequence for the outcome of the match) could truly be said to amount to '*exceptional circumstances*'. However, the Appeal Board went on to conclude
- i) That the proper interpretation of the Sentencing Guidelines (above)
 - (1) did not mean that in the absence of '*exceptional circumstances*' the Regulatory Commission was mandated or enjoined only to impose a lifetime suspension, but rather
 - (2) entitled the Regulatory Commission to disapply the Guidelines if it considered it appropriate to do so on the facts of the case
 - ii) That the Regulatory Commission had indeed concluded that it was appropriate on the facts of the case to disapply the Sentencing Guidelines and to conclude that the particular characteristics of the case meant that a lesser sanction outside the guidelines of a lifetime ban was appropriate
 - iii) That the Regulatory Commission had been entitled to reach that view given the particular characteristics of the case as the Regulatory Commission had found them to be
 - iv) That although the Appeal Board might itself have imposed a suspension that was a '*little longer*' than 5 years, the FA had not cleared the high hurdle of showing that

sanction imposed by the Regulatory Commission was unduly or unreasonably lenient

g) The Appeal Board therefore dismissed the FA's appeal.

83) We are of the view that there is nothing 'exceptional' about this case. We therefore considered whether there were any particular characteristics of this case that meant a lesser sanction, outside the guidelines of a lifetime ban, was appropriate.

84) After lengthy consideration we concluded that there were such characteristics in this case, and that imposing a lifetime suspension on KI would be disproportionate and inappropriate. The principal reasons for reaching that conclusion were as follows:

a) KI's conduct did not affect the outcome of the match. We say that not to reduce the gravity of what KI did, but simply to acknowledge that breaches of FA Rule E5 more serious than the breach committed by KI can occur

b) The sums involved were relatively small

c) There was no evidence that KI profited financially from the conduct (or perhaps more accurately, that he would have done so had Skybet not refused to pay out) – although equally, there was no evidence that KI would not have done so

d) We felt that it was disproportionate to impose a sanction the practical effect of which would be to prevent KI from having any involvement of any kind in football for the rest of his life – although as we set out below, the gravity of KI's conduct and the aggravated circumstances of this case means that the suspension that we in fact impose makes it unlikely, given KI's age, that he will be able to resume a playing career.

85) We therefore concluded that the particular characteristics of this case mean

a) That it is appropriate to disapply the 'lifetime ban' set out in the Guidelines, and

b) That a lesser sanction outside the guidelines of a lifetime ban is appropriate.

86) However, we were unanimously of the view that the sanction to be imposed on KI must be a severe one. There is little in the way of personal mitigation in this case, and a number of aggravating features, including

- a) The deliberate and planned nature of KI's conduct
- b) The recklessness and potential risks to the Shrewsbury Town player of the challenge that led to KI being carded
- c) The 'stage' on which the misconduct occurred – a televised fixture in high-profile competition
- d) KI's lack of co-operation with the FA's investigations and engagement with the Charges
- e) A lack of insight or remorse on the part of KI .

87) In the circumstances we concluded that KI should be suspended from all football activities for a period of 10 years.

88) We considered

- a) Whether any part of that suspension should be suspended. We saw no basis for suspending any part of the suspension
- b) The date from which the suspension should begin, bearing in mind that KI had been subject to an ISO suspending him from all footballing activity since 5 August 2022. We concluded that there was no reason to 'backdate' the start of the 10 year suspension to that date. The 10 year suspension therefore starts from the date of this Decision and Written Reasons.

89) We do not impose any financial penalty in respect of KI's breach of Charge 1.

ii) Charge 2

90) The FA invited us to sanction KI's breaches of FA Rule F3 on the basis that

- a) KI had shown a flagrant disregard of his responsibilities as a Participant
- b) The ongoing nature of KI's breach was an aggravating factor
- c) Others who might be contemplating disregarding their obligations to provide the FA with requested information and documentation must be left in no doubt that such conduct will attract a significant sanction.

91) We agree with the FA's characterisation of KI's conduct in connection with its investigation of this case. It has been wholly unacceptable. We also agree with the FA that conduct of that nature merits a serious sanction, the practical effect of which will hopefully be (as well as sanctioning KI appropriately) to send a clear message to any Participant who might be contemplating disregarding their responsibilities under FA Rule F2 that

a) Any attempt to obstruct an FA investigation in the hope that that conduct will damage the prospects of the FA being able to prove a substantive charge, and so

b) A breach of FA Rule F2 for that purpose

will of itself attract a significant sanction. And we would add – the sanction is likely to be even more severe should a Regulatory Commission conclude that a consequence of the obstruction has been to prevent the FA from being able to properly investigate and prove a substantive charge that it might otherwise have brought against the relevant individual or others.

92) In our view a 12 month suspension is appropriate to reflect KI's breach of FA Rule F2. That sentence should run concurrently with the 10 year suspension that we impose and should start from the date of this Decision and Written Reasons. Once again, we saw no reason to suspend any part of that suspension.

93) Before leaving this section we make one final thing clear. In arriving at the sanction above we took care to avoid 'double counting'. KI's lack of co-operation was something taken into account when arriving at the sanction for Charge 1 above and we therefore took care to reflect that fact when arriving at our sanction for Charge 2.

iii) Charges 3-349

94) The Sentencing Guidelines provide assistance for the purpose of arriving at an appropriate sanction for Charges 3-349.

95) We considered whether (as has been done in other cases) we should

a) Apply an individual sanction to each Charge, and so

b) Apply 347 individual sanctions in this case.

However, while we agree with the FA's position that each bet constitutes a discrete and separate breach of FA Rule E8, the appropriate approach to sanctioning KI in respect of those Charges in this case is in our view to stand back and consider the conduct of KI that

underlies Charges 3-349 as a whole, and to sanction him for that conduct as a whole. That is therefore what we did.

96) In doing so

- a) We were unable to identify any significant mitigating factors beyond the fact that KI did at least accept responsibility for the majority of the bets
- b) We agreed with the FA's position that KI's breaches were aggravated by
 - i) The fact that certain of the bets had been on KI's own team, including bets to lose
 - ii) The fact that KI had played in certain matches on which bets had been placed on his club
 - iii) The number of bets and the timeframe across which they were spread (albeit that we took care not to double-count the number of bets given the 'global' approach that we took to sanction for Charge 3)
 - iv) KI's obstructive behaviour throughout the investigation (although once again we took care not to 'double-count' in that regard).

97) Having regard to all such matters we concluded that the appropriate sanction in respect of KI's breaches of Charges 3-349 was

- a) To suspend KI for a period of 18 months from all footballing activities
- b) To impose a fine of £3,000.

98) That 18 month suspension should run consecutively to, not concurrently with, the suspension of 10 years that we have imposed on KI in respect of Charge 1. That is because the acts underpinning Charge 1 and Charge 3 are entirely unrelated to one another – the Charges arise out of wholly different conduct committed by KI at different times

iv) Standing back

99) Having reached the conclusions set out above in respect of the sanctions to be imposed on each Charge, we considered whether the totality of those sanctions, when viewed as a whole, was just and proportionate in this case. In our view it was.

(G) Order and Costs

100) We make the following Order:

- a) Charge 1 is proved. KI is suspended from all Football Activity for 10 years with effect from the date of this Decision and Written Reasons
- b) Charge 2 is proved. KI is suspended from all Football Activity for 12 months with effect from the date of this Decision and Written Reasons, such sanction to run concurrently with the suspension imposed in respect of Charge 1
- c) Charge 3 is proved. KI
 - i) Is suspended from all Football Activity for 18 months. That 18 month suspension shall begin immediately following the expiry of the 10 year suspension imposed in respect of Charge 1
 - ii) Is fined £3,000
- d) KI shall pay the Regulatory Commission's costs.

101) The fact that the Charges have now been determined means that the ISO imposed on 5 August 2022 is now discharged.

102) This decision – which is the unanimous decision of this Regulatory Committee – is subject to the relevant Appeal Regulations.

Graeme McPherson KC (Chairperson)

Alison Royston

Stuart Ripley

12 October 2022