

**IN PROCEEDINGS UNDER THE RULES OF THE ENGLISH FOOTBALL LEAGUE**

*Before:*

*Murray Rosen QC (Chair)*

*Mr Kwadjo Adjepong*

*Mr Ashley Cukier*

**BETWEEN:**

**THE ENGLISH FOOTBALL LEAGUE LIMITED**

**Claimant**

**-and-**

**MACCLESFIELD TOWN FOOTBALL CLUB**

**Respondent**

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**DECISION OF THE DISCIPLINARY COMMISSION DATED 19 JUNE 2020**

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**(1) Introduction**

1. By an Award dated 5 May 2020 ("**the May Award**") the above-named Respondent Macclesfield Town Football Club Limited ("**MTFC**" or "**the Club**") a member of the English Football League playing in the 2019/20 season in League Two, was, for the second time this season, sanctioned by way of points deductions for various

breaches of the EFL's Regulations, including the failure to pay players' salaries on time, in that case for February 2020.

2. By a subsequent letter dated 27 May 2020, the Claimant ("EFL") charged the Club with yet further breaches of EFL Regulations as a result of:

(a) a failure to pay salaries for March 2020 on time contrary to EFL Regulation 67.3; and

(b) an alleged breach of the terms of the EFL's loan for that purpose, dated 10 April 2020 and contrary to its duty of the utmost good faith under EFL Regulation 3.4.

3. The Club's failure to pay March 2020 salaries on time was known to the Commission at the time of issuing the May Award and had been referred to in the May Award at paragraph 70 as follows:

*"... the Commission should make it clear that it does not consider that MTFC's tardiness (yet again) to pay the players' remuneration for March on time necessarily requires a further charge. Given its reasoning and conclusions as above, it would require strong persuasion to impose a yet further points deduction for any such breach (albeit the sixth monthly failure this season to pay players promptly)".*

## **(2) Factual background**

4. It is not necessary to repeat in full the factual background summarised in the May Award, which is also relevant to the current charges and their disposal.

5. Suffice it to say, for present purposes, that MTFC has undergone significant financial shortfalls and has suffered from poor financial management throughout this season; and this has resulted in, among other things, a winding up petition from HMRC which has not yet been resolved, and the freezing of its accounts by its banks, including a period of some weeks after a validation order made in December 2019,

which the Club was required (but failed) to restore before the Companies Court in February 2020.

6. MTFC's last games this season were at home on 29 February 2020 and away on 7 March 2020. As with all sport clubs throughout this and most other countries, the impact of the COVID-19 pandemic and the suspension of matches thereafter significantly disrupted every aspect of its management.
7. MTFC has a current account with [REDACTED] and an overdraft with [REDACTED] but apart from match day income and any contributions from the EFL and the Premier League, has been and is largely dependent on funding by or through its owner and chairman Mr Amar Alkadhi, who has effectively been in charge of its finances during this difficult period. He operates two loan accounts with MTFC, one in his personal name and one in the name of his company Ramy Limited, through which he owns the Club.
8. Whilst the challenges for relatively small football clubs (even with wonderful histories like MTFC) cannot be overestimated, this Club was living a particularly hand-to-mouth existence. Without, it seems, sufficient capital or reserves, and no formal fixed funding agreement with Mr Alkadhi and his companies, it faced a moveable feast – or, rather, famine.
9. Thus, Mr Alkadhi would apparently decide whether and when more funding from his sources (including a company called [REDACTED]) was necessary, depending on how much time (for such payments) he could obtain whilst juggling MTFC's obligations. He also adopted the habit of "sweeping" MTFC's bank accounts – removing its funds (whether provided by him or not) if not being immediately used, to avoid any further freezing by its banks - and incidentally increasing the risk of shortfall to other creditors.
10. On 20 March 2020 the EFL told its member clubs that it was making available loan advances of up to £119,600 each. MTFC applied for such a loan on 6 April 2020. In the meantime, it did not pay any of the salaries due on 31 March 2020 (to 18 players and 21 other staff) and Mr Alkadhi did not arrange funding for it to do so.

11. On 7 April, the EFL's finance director Mr Tad Detko inquired as regards MTFC's payment of salaries for February and March 2020. Mr Alkadhi stated that the February 2020 salaries had by then been paid in full, but there were debts to NEST, the pension provider (in the sum of £21,159.64) and in respect of the March 2020 salaries which had not been paid, for which he provided a list.
12. At the same time, discussions were taking place between League Two clubs, the EFL, players and the Professional Footballers Association ("PFA") over furlough and salary deferral proposals (although it seems that MTFC did not even apply in time under the Government furloughing scheme). At one point the EFL recommended bilateral discussions between its member clubs and players/the PFA regarding deferral of April salaries.
13. On 10 April 2020, Easter Friday, the EFL indicated that it was prepared to advance to MTFC a facility of £84,861.38, being the exact total of the overdue March salaries and some previous arrears due to the [REDACTED] on condition, as confirmed in writing signed by Mr Alkadhi for MTFC, as follows:

*"I also acknowledge and confirm that in the event The Football League Limited makes the Facility available to the Club, the Club will in the first instance use the Facility to settle all outstanding employees' salaries for the Month of March 2020 and for earlier months in respect of [REDACTED]. For the avoidance of any doubt that totals £84,861.38 made up as to March wages of £79,425.86 and [REDACTED] previous wages owed of £5,435.52."*

14. Accordingly, on Tuesday 14 April 2020, the EFL advanced the £84,861.38 to MTFC's [REDACTED] account, from which a total of £24,290.25 and £39,502.99 was paid on the same day to players and staff, representing 80% of their overdue March salaries. A few other small payments were made on 14, 15 and 16 April.
15. Earlier on 14 April 2020, Mr Alkadhi arranged for [REDACTED] to advance £50,000 to MTFC's [REDACTED] account, which was entered into its loan account with Ramy and had the effect of reducing the [REDACTED] overdraft. On the same day MTFC apparently made payments of £20,000 to [a Club Employee] [REDACTED], who repaid it by two sums of

£10,000 each on the same day, and £20,000 to Mr Alkadhi apparently in reduction of Ramy's loan account.

16. On Friday 17 April 2020, after further exchanges between Mr Detko and Mr Alkadhi regarding salaries, MTFC and the PFA reached agreement and the Club paid the balance of the outstanding March 2020 salaries to the players (and the team manager and assistant manager) and the [REDACTED] arrears, but not to other non-playing staff.
17. In the meantime on the same day, 17 April 2020, sums of £2,500 and £17,500 were credited to MTFC's [REDACTED] account from Mr Alkadhi and [REDACTED] respectively, as regards which MTFC say that this was repayment of the £20,000 (mentioned at the end of para 15 above) said to have been "swept" by Mr Alkadhi on 14 April 2020.
18. On 20 April 2020, Mr Alkadhi wrote to Mr Detko referring to the "private" loan terms between EFL and MTFC, saying that forcing the timing of further payments would affect cash-flow and ongoing discussions with staff to defer salaries.
19. On Tuesday 21 April 2020, the Commission heard the charges then proceeding against MTFC, mainly concerned with (i) MTFC's failure to pay the players' February salaries on time contrary to EFL Regulation 67.3 and (ii) the cancellation of MTFC's home game against Plymouth Argyle FC on 21 December 2019 because of its failure to obtain the necessary ground barriers safety test certificate.
20. At that hearing, the Commission was told that the players' March salaries had been paid, albeit late. It was not told about the terms of the loan from the EFL nor of any alleged breach thereof. It considered a number of explanations or excuses by MTFC for previous breaches of the EFL Regulations (rejecting among other things its claim that the EFL had been wrong to withhold monies because of a claim by a previous manager).
21. In the light of the matters considered by the Commission at that hearing, and the earlier Commission proceedings (SR/343/2019, on appeal SR/011/2020) brought against the Club this season, the Commission in the May Award, among other rulings, activated a previously suspended 3 points deduction and imposed an

immediate 4 points deduction and a further suspended 2 points deduction to be activated if, among other things, MTFC breached EFL Regulation 67.3 again this season.

22. This left MTFC placed second from bottom at 23<sup>rd</sup> in the League Two table with a points total of 25 after 37 games, just above Stevenage FC with 22 points after 36 games: a 3 points advantage, but in circumstances where Stevenage had one game in hand.
23. MTFC did not pay the 20% balance of March 2020 salaries (£4,886.41) to non-playing staff until 6 May 2020, which happened to be the day after the issue of the May Award. Other payments had been made out of the EFL loan monies in the meantime. On 20 April 2020, the balance on its [REDACTED] account was down to only £62.04.

### **(3) These proceedings**

24. The EFL's notification letter dated 27 May 2020 charged the Club:
  - (a) first, with 18 charges arising from the Club's failure to adhere strictly to the terms of the Standard Contracts in that it did fail to pay 18 players on or before the Payment Due Date (31 March 2020), the same amounting to a breach of EFL Regulation 63.7; and
  - (b) secondly and thirdly, with 2 charges - which we reverse in order - arising from the Club's failures (i) to comply with an order, requirement, direction or instruction of The League and/or to (ii) act with utmost good faith in respect of matters and transactions with the EFL, in that it did not act in accordance with the EFL's legitimate directions relating to the utilisation of loan advances in settlement of wage arrears to football creditors of the Club in breach of EFL Regulation 3.4.
25. The Commission was appointed through Sport Resolutions pursuant to paragraph 69 and Order (3) of the May Award, and the Chair convened a preliminary conference

on 2 June 2020 with counsel for the parties, Mr Steven Flynn for the EFL and Mr Richard Stubbs for MTFC, together with Ms Anna Thomas of Sport Resolutions, to consider among other things the EFL's application for expedition.

26. Following that conference, directions were given for statements and a prompt remote hearing on Friday 12 June 2020, given the urgent need to resolve, as early as possible, MTFC's position in League Two, on which other important matters depended, not least because of the imminent end of the season with many scheduled matches not played because of the impact of the COVID-19 pandemic. MTFC served a Response on 8 June, the EFL served a Reply on 10 June 2020 and MTFC served a helpful skeleton argument.
27. There intervened, on 9 June 2020, not as a surprise, the formal ratification by League Two of the immediate ending of the 2019/20 season and the process for deciding upon final positions in the League Two table, based on the average points per match played. On that basis, if the suspended two points from the May Award were activated, MTFC would (just) remain in 23<sup>rd</sup> place. But if any more points were deducted from its total for this season, it would fall below Stevenage FC and would be relegated instead.
28. Against that background, the hearing took place by video-conference on 12 June 2020, as organised by Ms Thomas. Mr Flynn again attended with Mr Craig and Mr Rimmer of the EFL; and Mr Stubbs again attended for MTFC with Mr Alkadhi and also Mr Mark Blower, a former MTFC chairman whom Mr Alkadhi has invited to assist in the attempt to improve the management of the Club.
29. The Commission are very grateful for the high-quality submissions, written and oral, of both counsel. The cooperation of the parties, especially in difficult times, is an example to others of how proceedings such as these should be conducted, even – or perhaps all the more so – when serious allegations have to be tested and resolved, and where the curtailment of the League Two season (and the potential ramifications of the charges brought against MTFC in that context) properly required this Commission to be convened speedily.

30. The Commission also appreciated the single electronic hearing bundle, properly indexed and hyperlinked, of 165 pages, plus the 3 relevant previous decisions as between the EFL and MFC of some 70 pages which could have been included. They appreciated somewhat less the 525 pages of other "authorities" to which little reference was necessary and of which extracts totalling no more than 100 pages would have been sufficient and proportionate.
31. Mr Alkadhi gave oral evidence and answered questions regarding his witness statement at the hearing (producing also a text exchange with a player on 14 April which did not much assist). Unfortunately, a good deal of what he said was not completely accurate when assessed against the documents and the Commission was unable entirely to rely on his evidence except when corroborated. However, and despite the concerns of the Commission in respect of the way in which he has managed the finances of the Club this season, they did not find him dishonest in his evidence.
32. Following the hearing, and in response to a specific request from the Commission at the end of the hearing that the Club provide a detailed statement to the Commission regarding how it intends to resolve the financial difficulties that have beset the Club this season, MFC submitted (with a missing document of 17 April 2020, which was again peripheral) a further statement, this time from Mr Blower. The statement was in general terms and gave little indication of how the Club intends to progress specific proposals or plans, which we address further below. Mr Stubbs also told us that the Premier League solidarity payment of £225,000 was expected to be received by the Club by August 2020 or sooner.

#### **(4) Applicable rules**

33. Under the definitions expressed in the EFL Regulations, "...'Misconduct' means: (a) any matter which is expressed in these Regulations as constituting 'misconduct'; (b) a breach of any other Articles and/or Regulations of The League (and any rules made in accordance with them); (c) a breach of an order, requirement, direction or instruction of The League."

34. EFL Regulation 3.4 provides in part that “In all matters and transactions relating to The League each Club shall behave towards each other Club and The League with the utmost good faith...”.
35. Under EFL Regulation 63.7, “The terms of a Standard Contract between a Club and a Player [which provide for payment in arrears on the last day of each month] shall be strictly adhered to”.
36. As regards decisions in disciplinary proceedings brought by the EFL against a member club, EFL Regulation 92 provides:
- 92.1 The Disciplinary Commission may at any time make a decision, and may make more than one decision at different times on different aspects of the matters to be determined.
  - 92.2 A decision may:
    - 92.2.1 order a party to do or refrain from doing anything ...
    - 92.2.7 order a deduction of points ...
    - 92.2.8 impose a financial penalty payable to The League ...
    - 92.2.12 order any other sanction as the Disciplinary Commission may think fit ...
  - 92.3 These sanctions may be imposed immediately or may be deferred or suspended for such period and on such terms as the Disciplinary Commission shall decide...”.
37. The law of England & Wales applies to the construction and application of the EFL Regulations, including the meaning of “utmost good faith” in EFL Regulation 3.4.
38. Although not directly applicable, we also draw attention to Appendix 5 of the EFL Regulations, dealing with financial fair play as regards the Championship. The EFL is familiar with concepts and mechanisms underlying the sustainability and profitability of member clubs, secure funding, planning and reporting.

## **(5) Submissions**

39. On the part of MTFC, the Club admitted the first group of 18 charges against it (in respect of breaches of EFL Regulation 63.7 by late payment of the March 2020 players' salaries). However, it asked that no sanction be imposed and that the suspended 2 points deduction under the May Award not be activated as *"this matter was known about when the previous disciplinary charges were before the Commission and the Commission indicated that a further charge was not necessarily merited."*
40. MTFC stressed an email from Counsel for the EFL to the Commission of 20 April 2020 stating that *"the players were not paid their March wages on time. This is despite the EFL releasing funds to allow this to happen. It is understood that the wages have now been paid but the date of payment is not known"* and submitted that the 3-day delay from 14 to 17 April 2020 as regards payment of the 20% balance owing to the players, was no justification for the charges.
41. On the second group of charges, the Club denied that it breached the terms of the loan agreed with the EFL on 10 April 2020 as regards the use of it to pay player and staff salaries *"in the first instance"* and denied any failure on its part to act in the utmost good faith towards the EFL. It claimed that it used the funds released by the EFL to pay salaries as agreed and was never asked to and never did agree a date with the EFL by which payment of salaries should be paid.
42. On sanctions, MTFC submitted that it is to be preferred that sporting outcomes are determined on the field of play and relegation from the EFL this season should be on sporting merit. It alleged that it was doing its best to cope with its financial difficulties and denied that the failure to pay salaries by 31 March 2020 could have secured any sporting advantage since no matches were played after early March. It made comparisons with the points deductions imposed on Southend United FC this season, and also with Derby County FC, Oldham Athletic AFC and Morecambe FC which it claimed had all paid players late in recent times but faced no charges.
43. The EFL, on the other hand, submitted that the comments made before and by the Commission in the May Award should not influence still less bind the Commission as

regards the appropriate sanctions on the present charges, given that the failure to pay the balance of salaries as from 14 April 2020 (a) was in breach of the EFL loan terms (b) involved a lack of utmost good faith by the Club and (c) was not remedied as regards non-playing staff until 3 weeks later, on 6 May 2020.

44. The EFL contended that MTFC had misapplied at least some of the loan monies. It should have paid over the totality promptly to the players and staff to whom it owed salaries, as was the express formal purpose and basis of the loan. Instead, MTFC had retained and used some of it for other purposes, including its negotiations with these football creditors as to deferrals for April and May 2020, before making good the balance for March 2020 under continuing pressure from the EFL (whether or not Mr Alkadhi would have delayed further if he could).

## **(6) Merits**

45. Having carefully considered all the evidence and submissions, not limited to those summarised above, the Commission regards both sets of charges as best dealt with largely together. It is satisfied that MTFC not only acted in breach of EFL Regulations as regards the players' March salaries but also breached the fundamental conditions of the EFL loan.
46. This does not involve any finding that the Club deliberately used part of the loan for other purposes or acted dishonestly or in bad faith, as to which the Commission is not at all satisfied. Mr Alkadhi had little understanding of what compliance meant and required, despite the obvious context in which MTFC was already well overdue in paying salaries for the sixth month this season, resulting in disciplinary proceedings and tightly drawn EFL loan conditions.
47. If Mr Alkadhi and MTFC did not appreciate that the obligation to use the loan to pay the players and other staff "in the first instance" expressly prevented him from delaying payment and/or from using the loan in the meantime for other payments (whether or not it was intended that such monies would immediately be "swept" back into the account), they were completely wrong.

48. We have to dismiss Mr Alkadhi's attempts to justify MTFC's breaches, in particular:
- (a) that he was at liberty to withhold payment whilst he negotiated for deferrals of future salaries: because of the clear terms of the EFL loan agreement, he was not;
  - (b) that he told players or the PFA that they would be paid March salaries in full: whether or not this was so, it does not extinguish the clear obligations under the loan agreement to pay such sums "in the first instance" (ie immediately and as a priority);
  - (c) that he was entitled to claim that he had lent the Club a proportion of the March salaries and not acknowledge that MTFC had been advanced the full amount by the EFL: he was not, and to do so ignored the clear terms of the loan agreement; and
  - (d) that he had not realised that other staff were also football creditors and had not been party to "other managers" deciding to withhold the balance of their March salaries: any ignorance of the definition of football creditors under the EFL Regulations could not affect the clear obligations undertaken by the Club under the loan agreement.
49. However, we do not have to, and do not regard these failings as dishonest and to the extent they fall short of the "utmost" good faith, we do not regard that as causative or as adding to the breaches of EFL Regulation 63.7 and the EFL loan agreement, or even to significantly aggravate those breaches.
50. As emerged in submissions, we should add that there was little difference between counsel as regards the legal test for MTFC's obligation of the "utmost good faith". The Commission accepted that, on distilling the authorities – including most relevantly, *F&C Alternative Investments (Holdings) Limited v Barthelemy* [2011] EWHC 1731 (Ch) concerning members of a limited partnership, at paras 255-259 – the key principles are that:
- (a) It is not necessary for the EFL to prove that MTFC (through the directing mind of Mr Alkadhi) was dishonest subjectively.

- (b) Whilst MTFC was not obliged to disregard its own interests, it was obliged to have due regard to the legitimate interests of both parties when they entered into the loan agreement, and was obliged to observe reasonable commercial standards of fair dealing in doing so.
- (c) The issue requires assessment of, and is informed by, the particular factual and contractual context within which it is located and is essentially objective. Thus if MTFC had disclosed to the EFL what it was doing or not doing with the loan monies and complied with its further instructions, it would be unlikely to have shown less than the "utmost good faith".

## **(7) Sanctions**

- 51. Applying the applicable rules, on the basis of our findings of fact, MTFC falls to be sanctioned, in essence for its delays in paying the whole of the players' March salaries for a total of 17 days, and breaching its loan agreement with the EFL as regards paying the final 20% of those salaries for 3 of those days and of the other staff salaries (a total of less than £5,000) for a further 19 days, instead keeping and using those amounts in the meantime elsewhere.
- 52. After very careful deliberation, and stepping back to look at the offences proved and the proportionality of possible sanctions in the round, the Commission considers that the suspended 2-point deduction in its May Award must be activated, notwithstanding what it said in paragraph 70 thereof as quoted above. The Commission has indeed been persuaded, on the basis of the matters above, that a further points deduction (in the form of the activation of the suspended 2-point deduction) is necessary and appropriate in the circumstances.
- 53. Weighing up the seriousness of the current charges involves a balance. On the one hand, in context, MTFC's further breaches of its salary payment obligations is in some respects extreme, coming after proceedings SR/343/2019 and in the midst of its appeal, and the new proceedings which resulted in the May Award, albeit that the amounts involved and/or delays in payment were relatively small.

54. Whilst Mr Alkadhi's long-term loyalty to MTFC cannot be doubted, its dependence on him and his manner of running MTFC, given his apparent lack of grasp of the essentials for ensuring that a League club strictly complies with EFL Regulations, has risked and still risks disaster. Nor can the EFL be fairly criticised for not doing more, including the investigation and enforcement of MTFC's breaches of the loan terms.
55. On the other hand, to treat the present offences as each requiring a further 3 points deduction this season (and resulting in relegation) especially in the light of what has happened since, would be disproportionate, unduly harsh and unnecessary. In that regard we refer not only to the principles summarised in the May Award at paragraphs 48 to 52, but to the uniqueness of the present situation.
56. Perhaps the most powerful point on MTFC's behalf, somewhat ironically, arises from the previous point deductions which have had to be imposed upon it this season, which amount so far, with the 2 points deduction now to be activated, to 13 points. What matters is not a comparison between that and, say, the deduction which would have followed from insolvency, albeit that MTFC's solvency may be a potential issue.
57. Rather, the effect of the COVID-19 pandemic, and more specifically the fact that the League Two table will now be finally decided according to average points per game (when MTFC has played only 37 instead of the expected 46 games) means that the 13 points deducted will take effect as if they had been over 16 points ( $46/37 \times 13 = 16.16$ ). This tips the balance as between MTFC and any other team, such as Stevenage FC, which has played fewer games.
58. In these circumstances the Commission considers that the fair, sufficient and proportionate course is first to treat the two groups of offences together as requiring sanctions including a total 4 points deduction, in effect treating them and their impact as if one aggravated offence (however many rules that were breached) and moreover to suspend such deduction until next season 2020/21 and on conditions.

59. In normal circumstances, of course, any points deduction should ideally be effected in the season of the offence, on the basis that that is the season affected by the relevant offences and the slate should be wiped clean for future seasons. But the present circumstances are very far from normal and counsel agree that the Commission has a power and discretion to impose a points deduction to take effect, if activated, next season (when perhaps, hopefully, the worst of the pandemic crisis may have passed).
60. That however is not the end of the sanctions needed in this case. At the root of MTFC's many offences this season has been its financial mismanagement, poor sustainability and lack of formal, fixed funding. This cannot be ignored when it comes to remedial and punitive orders available to this Commission
61. The Commission considers that it is its duty to require MTFC to submit to the EFL a professionally prepared business plan demonstrating how it will be properly managed and funded on a stable basis (and one which will be properly implemented) for next season and going forward, to ensure compliance with its regulatory and other obligations without recourse to Mr Alkadhi's *ad hoc* (and seemingly often wayward) methods and decisions.
62. There is also required and MTFC deserves, despite its parlous state, a financial penalty. The Commission considers, having regard to the amounts involved and the gravity of MTFC's misconduct overall, coupled with the points deductions, and all the other circumstances, that the appropriate fine is in the modest sum of £20,000, linked to the satisfactory delivery of a business plan as mentioned below.

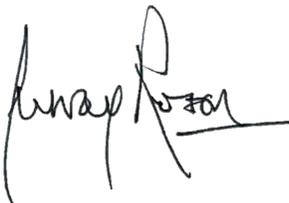
## **(8) Conclusions**

63. This has not been an easy or in some respects straightforward matter and it is to be hoped that the circumstances do not arise again. In the end we have no doubt that MTFC's misconduct, whilst egregious, does not necessitate a sporting sanction which would result in its relegation from League Two. It does require however a significant but suspended points reduction, unusually, for next season.

64. The business plan to which we have referred is vital, as is the resolution of HMRC's winding up petition and validation of *bona fide* transactions in the meantime. Whilst a notable supporter in many ways, Mr Alkadhi is right to wish to step back from day-to-day management of the Club.
65. Such plan must be delivered to the EFL by 31 July 2020. When we proposed that date following the hearing, MTFC asked in writing for it to be extended by a month to 31 August 2020, on the basis that Mr Blower had to familiarise himself with the Club's current position and that the possible variables for next season were still developing. We disagree: Mr Blower should be prioritising the basics of proper financial management and funding in any event, and the plan is needed before next season, notwithstanding that some aspects will continue to evolve.
66. We invite the EFL to consider in its absolute discretion whether to defer, waive or repay the £20,000 fine which we impose on MTFC as payable by the same date, 31 July 2020, in the light of the contents and implementation of the business plan to be delivered by MTFC.
67. At the hearing the Commission invited, and subsequently received submissions as to publication of this award and costs. Rule 20.2 of Appendix 2 to the EFL Regulations provides that the decisions of a Disciplinary Commission shall be published unless otherwise agreed between the parties and subject to any appropriate redaction to protect third party confidentiality. Given the nature of the charges before the Commission, the EFL asked that the award be published and MTFC did not oppose this, and so it will be ordered.
68. As for costs, Rule 14 of Appendix 2 of the EFL Regulations provides that the Commission has the power to award costs to include the costs of the investigation, of the parties and of the Commission. In this case, there can be no doubt that MTFC should pay the costs of the EFL and of the Commission. In the event, the EFL claimed costs of £7,235 plus VAT, and MTFC agreed to pay that sum.

**The Commission therefore hereby orders:**

- (1) That the Respondent Club MTFC is found in breach of EFL Regulation 63.7 as regards the late payment of March 2020 salaries and to have misconducted itself by breaching the EFL's loan terms relating to the same;
- (2) That the 2 points suspended deduction ordered against MTFC in the Award dated 5 May 2020 be immediately activated for this 2019/20 season, and a further 4 points deduction be imposed and suspended for next season 2020/21, to be activated if the Club is found to have committed any further breach of Regulation 63.7 by not paying its registered players on time during that season;
- (3) That MTFC deliver to the EFL by 31 July 2020 a professionally prepared business plan seeking to demonstrate sustainable financial resources and management to be put in place for next season and beyond;
- (4) That MTFC do pay a fine of £20,000 to the EFL by 31 July 2020, subject to the EFL, in its absolute discretion, considering whether to waive, defer or repay the same in the light of the business plan required under Order (3) above;
- (5) That MTFC do pay the costs (a) of the EFL in the sum of £7,235 plus VAT within 14 days of this award and (b) of the Commission within 14 days of being notified of the same in writing through Sport Resolutions;
- (6) That this award be published, unless otherwise agreed between the parties and subject to any appropriate redaction to protect third party confidentiality.



Murray Rosen QC

For and on behalf of the Disciplinary Commission

19 June 2020



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