

**GENERAL PURPOSES TRIBUNAL  
OF FOOTBALL NEW SOUTH WALES  
FINAL DETERMINATION  
IN THE FOLLOWING MATTER:**

**GPT 15/44**

Respondent	Arncliffe Aurora FC
Attendees	Mr Sam Hassan, Club President Mr Michael Ayache, Legal Representative Mr Mohammad Chahine, Assisting Legal  Mr Lorenzo Crepaldi, Legal Counsel FNSW Mr Shane Merry, Disciplinary Coordinator FNSW
The basis upon which the matter is before the General Purposes Tribunal	Grievance and Disciplinary Regulations Sections 8.2 and 15.3
Key Words/Phrases	Club Liability for actions of Members and Participants, Bringing the Game Into Disrepute, Falsification of Team Sheet, Use of suspended/ineligible Players, Appropriate Sanction imposed as a deterrent, Quantum.
Date of Hearing	15 December 2015
Date of Final Determination	14 January 2016
General Purposes Tribunal Members	Mr Chris Gardiner (Chair) Mr David Lewis Ms Courtney McLean

## **A. INTRODUCTION**

1. Football NSW has established this General Purposes Tribunal pursuant to Section 5 of the Football NSW Grievance and Disciplinary Regulations 2014 ("Regulations").
2. A General Purposes Tribunal (GPT) is responsible for hearing and determining:
  - 2.1. Breaches of Misconduct and Disrepute as set out in Section 8.2 of the Regulations;
  - 2.2. Grievances between Members as set out in Section 8.3 of the Regulations;
  - 2.3. Matters referred by Football NSW's Disciplinary Committee as set out in Section 8.4 of the Regulations;
  - 2.4. Any other matter Football NSW considers important to the interests of football in the State, at its absolute discretion, as set out in Section 8.1 (a) (iii).
3. The GPT makes determinations as set out in Section 8.5 of the Regulations.

## **B. NOTICE OF CHARGES**

4. Football NSW issued a Notice of Charges against the Respondent dated 27 November 2015, alleging:

**CHARGE 1:** breaches of Sections 3.2(b)(ii), (d), and (e) of the Football NSW Competition Regulations and Sections 15.3 (d) and/or (e), and/or 16.10(a) of the Football NSW Regulations.

**CHARGE 2:** breaches of Sections 2.1 and 2.2(g) of the FFA Code of Conduct and/or Section 15.3 (b) and/or (e) of the Football NSW Regulations.

**CHARGE 3:** breaches of Sections 2.1 and 2.2(g) of the FFA Code of Conduct and/or Section 15.3 (b) and/or (e) of the Football NSW Regulations.

**CHARGE 4:** breaches of Sections 3.2(b)(ii), (d), and (e) of the Football NSW Competition Regulations and Sections 15.3 (d) and/or (e), and/or 16.10(a) of the Football NSW Regulations.

**CHARGE 5:** breaches of Sections 2.1 and 2.2(c), (d), (f) and/or (k) of the FFA Code of Conduct and/or Sections 15.3(b), (g) and/or (h) of the Football NSW Competition Regulations.

5. The conduct alleged in the Notice of Charges for the Respondent was as follows:

**CHARGE 1:** *During the Match, the Club played an ineligible Player (X). At the relevant time, X was subject to a three Fixture suspension imposed by St George Football Association on 22 August 2015 and had one Fixture remaining to be served. The Club was responsible for ensuring that the team fielded eligible Players.*

**CHARGE 2:** *During the Match, the Club played a Player (X) under a false name (Y). The Club was responsible for ensuring that the Team Sheet was correctly completed.*

**CHARGE 3:** *During the Match, the Club played a Player (Z) under a false name (A). The Club was responsible for ensuring that the Team Sheet was correctly completed.*

**CHARGE 4:** *During the Match, the Club played an ineligible Player (Z). At the relevant time, Z was subject to a one Fixture suspension imposed by Football NSW on 20 September 2015 for an R6 offence. The Club was responsible for ensuring that the team fielded eligible players.*

**CHARGE 5:** *The melee, instigated by members of the Club: (a) brought or may have brought the game of Football into Disrepute; and/or (b) was or may have been, in the opinion of Football NSW, prejudicial to the interests or reputation of either the game of Football in the State or to Football NSW*

6. The Respondent pleaded not guilty to the Charges.

### **C. DECISIONS OF THE GPT**

7. The Tribunal determined that Arncliffe Aurora Football Club be suspended from participation in Football NSW tournaments, including Champion of Champions and State Cup, in 2016 and 2017.
8. The Tribunal determined that a two (2) year compliance and conduct bond of \$7,500 be placed on Arncliffe Aurora Football Club, such bond to be forfeited as a result of any Association, FNSW or Tribunal finding that the Club has fielded ineligible players or been guilty of false identification of players or officials, or that the Club's players, officials or spectators have been guilty of violence and bringing the game into disrepute.

### **D. THE HEARING**

9. The Hearing was held at Football NSW on 15 December 2015.
10. The Respondent was represented by Mr Michael Ayache.
11. The Respondent was provided an opportunity to make submissions on the competence and/or jurisdiction of the Tribunal. No submissions were made.
12. The Respondent was cautioned with regard to the accuracy and honesty of any testimony provided.
13. Football NSW withdrew the original Charge 1 as stated in the Notice of Charges.
14. The resulting Charges 1-4 were joined in the hearings for the purpose of submissions and arguments.
15. The Respondent was provided with an opportunity to make opening and closing submissions and to argue its case on each Charge.
16. The Respondent was advised of its right to appeal any determination of the Tribunal.

### **E. EVIDENCE & SUBMISSIONS**

17. The Tribunal accepted and relied on Annexures 1 and A-Z submitted by Football NSW for this and related GPT 14-44 matters, and detailed in the Notice of Charges.
18. The Respondent acknowledged that two players had taken the field in the match in question and under false entries in the match sheet.

19. Mr Ayache submitted that the Club should not be held liable for, and its members negatively affected by a sanction arising from the misconduct of team officials or certain players.
20. The Respondent acknowledged that its players had been involved in a violent melee after the match in question.
21. Mr Ayache submitted that whilst it was appropriate that the Club be sanctioned for the actions of its players under Section 16.8(a)(iv) of the Regulations, the Tribunal should not find that the Club was guilty of a breach of 15.3(b) of the Regulations, "bringing the game into disrepute".
22. Mr Ayache submitted that the Club accepted that some level of bond or fine might be appropriate for findings of guilt against the Club. He also submitted that an appropriate sanction might be the imposition of a requirement to establish systems of policy and procedure at the Club.
23. Football NSW submitted that an appropriate sanction would be a two-year suspension of the Club from Football NSW tournaments such as Champion of Champions and State Cup.

## **F. CONSIDERATION & COMMENT**

24. The concept of Club liability for the actions of Members and Participants was at issue before the Tribunal.
25. Club liability is posited in the FFA Code of Conduct at Sections 2.3 and 3.1 for the behavior of spectators, at both home and away matches.
26. Club liability is posited in FNSW Regulations with regard to team conduct at Section 16.8(a).
27. Club responsibility – "absolute responsibility" – for ensuring it fields eligible players is posited at Section 3.2(e) of the FNSW Competition Regulations.
28. The Tribunal is of the view that Club liability for the actions of its Members is a well established principle, and that principle is applied to its Officials, as intimated in paragraph 27 above, specifically with regard to the playing of eligible players in Section 3.2(e) of the Competition Regulations.
29. The Tribunal takes the opportunity, however, to further explore and articulate the principle.
30. Clubs appoint some of their Members as volunteer 'servants'. Some of those servant roles include the roles of team coach and team manager. These servants are appointed by the Club. They are under the control of the Club, and the Club has lawful authority to direct them. They are given authority to act on behalf of the Club, not least in the completion of official Football competition documents. They represent the Club to its members, and the Club to the community and to third parties such as peak or regulatory bodies. The Club has, at all times, authority to terminate their service.
31. The Club is responsible for the proper recruitment of its Participants. The Club is responsible for the proper preparation of their Participants for the discharge of responsibilities delegated to them. The Club is responsible for the supervision of those Participants. The Club is liable, as a result, for the conduct of those Participants.
32. It is a principle in law that a master is liable for the actions of a servant undertaken and/or arising within the scope of and in the course of their service. In the context of a Club it is clearly responsible for the conduct of its Participants in exactly the same manner.

33. The fielding of eligible players, the true identification of players in official fixture documents, and the duty of care to Players are central responsibilities for a Football Club and of those Participants it appoints as Team Officials.
34. The fielding of ineligible players, and the false identification of those Players, in this matter occurred in the scope of their role and the course of their responsibility.
35. The Tribunal did not accept the argument from the Respondent that it should not be accountable and liable for the actions of its Officials at the fixture involving its U/16 boys team at the Champion of Champion match on 27 September 2015.
36. Having determined that the Officials were guilty of the Charges of playing suspended players and playing individuals under false names in related determinations, the Tribunal determined that the Club was guilty of those Charges.
37. The Tribunal found Arncliffe Aurora FC guilty of Charges 1, 2, 3 and 4 as stated in the Notice of Charges.
38. The Tribunal considered how best to send a signal of the seriousness of the particular act of unprofessional and unsporting conduct, and to deter future conduct, within the Club and across Football NSW membership. Given that the focus of the conduct in this instance had been the high profile and highly valued Champion of Champions tournament, the Tribunal agreed with Football NSW's submission that a suspension from such tournaments for a period of two years was appropriate and a likely deterrent.
39. The Tribunal determined that Arncliffe Aurora FC be suspended from Football NSW tournaments, including Champion of Champions and State Cup, in 2016 and 2017.
40. With regard to Charge 5, relating to the participation of its Players in a violent melee, the Tribunal took note of previous tribunal attendances by the Club and had regard to what it thought the Club should have had in place or done as a result of those attendances.
41. The Tribunal noted the Decisions of the St George Football Association GPT in a report dated 2 July 2015, provided to the Tribunal as Annexure T2, relating the conduct of Club Spectators at a local match involving the Club's U/17 team.
42. The Tribunal noted in particular that the Club had been placed under a \$1,000 bond, been directed to provide 3 vested Officials at fixtures for the remainder of the season, and been specifically directed to ensure Spectator compliance with suspensions it imposed.
43. The Tribunal noted comments in its Determination for GPT15/14 dated 27 July 2015, including the following:

*"The Club is liable both for the misconduct of Mr Mansour and for the failure of its officials to manage his conduct and ensure his compliance with the decisions and direction of the match official."*
44. The Tribunal noted that the Club had been reprimanded and warned in that Determination regarding its failure to manage the conduct of its Supporters.
45. It was the Tribunal's view that, given issues identified and addressed by the St George Association GPT, and the emphasis on Club liability in GPT 15-14, the Club should have had risk management in place for important fixtures. Such risk management should have included proper briefing and preparation of its Officials to handle incidents. Those Officials included the team coach and manager and the vested officials appointed to the fixture.

46. It was not clear to the Tribunal that the coach or manager had been properly prepared for their duties. An example of this was the admission of the Coach that he was not aware that a person sent from the field on the issue of a Red Card was not allowed to engage further in the fixture activities, including by staying on the bench or entering the field to shake hands at the end of the match. Nor was it clear that they had been prepared for dealing with incidents at games.
47. The Tribunal made one final observation in terms of Club liability. Where a Club has its parents and Spectators involved in violent conduct, it may not be surprising if its young players subsequently act violently.
48. The Tribunal agreed with Mr Ayache that the Club was liable for a sanction under 16.8(a)(iv) given the misconduct of its players in the melee in question.
49. The Tribunal also found, however, that the Club was responsible for the player misconduct, and the regulatory breaches, on 27 September 2015.
50. As a result, and for the reasons outlined above, the Tribunal found that the Club was guilty of bringing the game into disrepute. Through the actions of its Players and Participants, and through the inadequate risk management of its committee, the Club was involved in serious breaches of the Regulations. It was involved in a violent melee that produced a serious injury to a young player, the involvement of Police and the laying of criminal charges, and very considerable media and community coverage and concern, as indicated in Annexures M1 to M20. On 27 September 2015 at a Champion of Champions fixture, the Club brought Football into serious disrepute.
51. The Tribunal noted that the Club had already been placed under a \$1,000 bond by the St George Association. It considered what quantum would signal the seriousness of the breaches before this Tribunal and compel the Club to address its policy, training and potentially organisational cultural issues. It determined that a bond of \$7,500 was an appropriately severe but not unreasonable bond for a Club playing at Association level.
52. Having determined that the Club was responsible for the misconduct of its Participants, the Tribunal decided that it should carry the costs of the tribunal processes.
53. The Tribunal determined that the costs of the GPT 14-44 processes relating to Arncliffe Aurora FC, and its Participants, as assessed by Football NSW, be met by the Club.

**Chris Gardiner**  
**Chairman**  
**12 January 2016**