

## **Case 10065390M and 10065465M**

**The Football Association Disciplinary Commission sitting on behalf  
of Surrey FA**

**In the matter of  
Sam Garcia and Chris Harwood**

**Hearing date 9<sup>th</sup> January 2020**

### **Written Reasons for Decision**

1. These are the written reasons for the FA Disciplinary Commission decision made on Thursday 9<sup>th</sup> January 2020.
2. The appointed Commission member was Mr. F. Duku, a member of the County Chairman's panel.
3. Sam Garcia (SG) of Sutton Knights was charged with a breach of FA Rule E3 - Improper Conduct (including foul and abusive language) and FA Rule E3(2) – Improper Conduct – aggravated by a person's Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability. It is alleged that (SG) created a fake social media account on behalf of another team and posted a series of abusive tweets with an implied reference to sexual orientation.
4. SG replied accepting the charge and asked for the case to be heard by correspondence in his absence.
5. Chris Harwood (CH) of Sutton Knights was charged with a breach of FA Rule E3 - Improper Conduct (including foul and abusive language) and FA Rule E3(2) – Improper Conduct – aggravated by a person's Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability. It is alleged that in a social media post, CH commented on an abusive tweet with the comment "great ANALysis". This comment was considered to be aggravated by reference to sexual orientation.

6. CH replied accepting the charge and asked for the case to be heard by correspondence in his absence.

**7. Relevant FA Rules**

Rule E3(1) provides that:

*A participant shall at all times act in the best interests of the game and shall not act in any manner which is improper or brings the game into dispute or use anyone, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.*

Rule E3(2) provides for:

*Improper conduct, aggravated by a reference, whether express or implied, to any one or more of the following – ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.*

Rule 47.1 of the Disciplinary Regulations read:

*Where a Participant commits an Aggravated Breach for the first time, a Regulatory Commission shall impose an immediate suspension of at least six Matches on that Participant. The Regulatory Commission may increase the suspension where additional aggravating factors are present.*

8. The full bundle of evidence provided to the Commission consisted of a statement by Terry Felipe (TF) the chairman of Wimbledon Chase FC, screenshots of a set of messages sent to TF about access to the Wimbledon Chase Twitter account, and the Twitter posts that led to the charges. Written responses to the charges were also received from both Sam Garcia (SG) and Chris Harwood (CH).
9. Having reviewed the evidence bundle the following observations were made. These reasons do not purport to contain reference to all the points identified, however the absence in these reasons of any particular point, or submission, should not imply that such point, or submission, was not taken into consideration when the matter was determined. For the avoidance of doubt, all the evidence and materials furnished regarding this case have been carefully considered.
10. TF provided a detailed statement with a clear chronological order of what had happened in this situation.

11. Both SG and CH readily admitted the charges raised against them and provided additional details explaining why they chose to do what they did. Both insisted that the actions taken were intended to be funny and were in no way intended to be homophobic or abusive. Both respondents apologised for their actions and expressed what appeared to be sincere remorse for what had happened.
12. The burden of proof rests with the County FA. The standard of proof is the civil standard of the 'balance of probability'. In simple terms that means the Commission has to be satisfied on the evidence, that it was more likely than not that an event had occurred.
13. The charges were noted as being accepted and the Commission had no reason to not accept these admissions so all that was required was to determine an appropriate sanction.
14. On checking his previous record, SG was noted to have a clean record. It was also noted that SG had responded accepting the charge. CH was also noted to have a clean disciplinary record and to have responded accepting the charge. These were considered to be mitigating factors.
15. Although the apology offered by both players was deemed to be genuine and sincere, the implication that they were totally unaware of the potential impact of the nature of the comments made was rejected.
16. It was therefore decided that SG would be sanctioned with the entry level sanction for proven E(3)2 cases, being a six match suspension, a £75 fine, the issue of 6 club penalty points and the requirement to complete an on line education course within the next four months or be suspended from all football until such time as the course is completed.
17. CH in turn was to be sanctioned with the entry level sanction for proven E(3)2 cases, being a six match suspension, a £75 fine, the issue of 6 club penalty points and the requirement to complete an on line education course within the next four months or be suspended from all football until such time as the course is completed.
18. The option to deviate from the mandatory 6 match suspension (as these were offences committed on social media) was considered, but it was decided it would not have been appropriate to utilise this option here.
19. These decisions may be appealed in accordance with the provisions in The FA Handbook.

Francis Duku.

9<sup>th</sup> January 2020