

IN THE MATTER OF JOHN MYSKIW

and a breach of the FA Rule E3(1)

before a Football Association Regulatory Commission

Commission: P D Powell (Chairman)
Gareth Farrelly
Ifeanyi Odogwu

**Secretary to
Commission:** P McCormack of the F.A.

**Date of Hearing
by Webex:** 18th July 2016

Mr Myskiw was charged with misconduct in breach of FA Rule E3(1) in respect of the media comments posted on his Twitter account namely “@will_frost@snips764 bitter yids”.

The F.A further alleged that the breach of F.A. Rule E3(1) is “an Aggravated Breach” pursuant to Rule E3(2). Mr Myskiw denies the charge and has elected for a paper hearing of the case.

Rule E3(1) requires that a Participant (the definition of which would include Mr Myskiw) “shall notuse abusive, indecent or insulting words or behaviour”.

Rule E3(2) defines “an Aggravated Breach” as one where the words used “include reference to any one or more of the following – ethnic origin, colour, race, nationality, religion or belief etc.”

Clearly the reference to “yids” in common parlance refers to a Jewish ethnic origin or race and therefore on a balance of probabilities the commission found the charge proven.

It may have been that Mr Myskiw did not intend the words to be insulting but it is well established (see for example F.A v. Suarez and F.A v Anelka) that the test is objective not subjective i.e. where the words are insulting having regard to all the facts and circumstances of the case and not merely intention. In this case the Commission unanimously agreed that the word “yids”, when considered objectively was insulting.

Having established the charge proven the Commission also found that there was no evidence to show that Mr Myskiw was in any way a racist or anti-semitic or that he intended or intends to promote anti-semitism and the sanction has been made on that basis and on taking into account the supportive letters Mr Myskiw put in evidence. Further, Mr Myskiw has no record of any previous disciplinary problems.

Rule E3(4) states that where the breach of E3(1) is committed in writing only or via the use of any communication device the Commission may impose such sanction as it considers appropriate taking into account aggravating and mitigating facts.

The Commission were made aware that Mr Myskiw is a director of the Club (Gainsborough Trinity FC) and therefore the Commission felt that a sanction was certainly appropriate.

Having considered the above facts the Commission unanimously sanctioned as follows:-

1. A fine of £75.
2. Mr Myskiw should attend a course of personal education.
3. A warning as to future conduct.

Peter Powell
Chairman
20th July 2016