

# **The Football Association Regulatory Commission**

**In the Matter of**

**The Football Association**

**-v-**

**Martin Demichelis (Manchester City FC)**

=====

## **Reasons for Regulatory Commission decision**

**Tuesday 17th May 2016**

The Regulatory Commission members were Messrs. Brian M. Jones (Chairman), Stuart Ripley and Alan Hardy appointed by The Football Association.

### **PARTIES:**

Mr Martin Demichelis was present and was represented by Messrs Juan de Dios Crespo Perez and Paolo Torchetti (both of Counsel) and accompanied by Mr Andrew Hardman, Head of Football Administration at Manchester City FC.

Mr Dan Lane acted as the independent Interpreter.

Miss Amina Graham, the Head of the FA Regulatory Advocates represented The FA.

Messrs Thomas Flavin (Regulatory Advocate) and Ian Ryder (The FA Football Integrity and Anti-Corruption Manager) attend the hearing as observers.

Mr Paddy McCormack the Manager of the Judicial Services Department of The Football Association acted as Secretary to the Commission.

The following is a record of the salient points which the Regulatory Commission considered and is not intended to be and should not be taken as a verbatim record of the hearing.

The plea of mitigation hearing took place at Wembley Stadium, London on Tuesday the 17<sup>th</sup> May 2016.

## **CHARGES:**

1. By a Charge letter of the 16<sup>th</sup> March 2016 Mr Demichelis was charged with Misconduct for a breach of FA Rule E8 in respect of 12 bets placed on football matches between 22<sup>nd</sup> January 2016 and 28<sup>th</sup> January 2016, and it was alleged that each bet was a separate bet.
2. Further particulars were stated as follow:
  - It was alleged that he placed 10 bets in breach of FA Rule E8(1)(a)(i) by placing bets on the result and/or progress and/or conduct and/or any other aspect of a football match or competition; and
  - It was alleged that he placed 2 bets in breach of FA Rule E8(2)(a)(i)(A) by placing bets on the result and/or progress and/or conduct and/or any other aspect of a football match or competition in which he was participating.
3. By a second Charge letter of the 7<sup>th</sup> April 2016 Mr Demichelis was charged with Misconduct for a breach of FA Rule E8 in respect of a further 17 bets placed on football matches between 29<sup>th</sup> January 2016 and 15<sup>th</sup> February 2016, and it was alleged that each bet was a separate bet.
4. Further particulars were stated as follow:
  - It was alleged that he placed 15 bets in breach of FA Rule E8(1)(a)(i) by placing bets on the result and/or progress and/or conduct and/or any other aspect of a football match or competition; and
  - It was alleged that he placed 2 bets in breach of FA Rule E8(2)(a)(i)(A) by placing bets on the result and/or progress and/or conduct and/or any other aspect of a football match or competition in which he was participating.
5. Mr Demichelis, at the earliest opportunity admitted the breaches and fully assisted The FA in their investigations. Further detail, under the heading Mitigation, is identified below.

## **CONCLUSION:**

6. As stated above Mr Demichelis admitted the charges and we were pleased to be informed that Mr Demichelis had no previous record of similar misconduct.
7. FA Rules E8 (1)(a)(i) and (2)(a)(i) are to be found at page 115 of The FA Handbook for season 2015-2016 and are simply repeated in the charge letters referred to above. No useful purpose would be gained by setting out those Rules here as that would only add to the author's typing and the readers reading.
8. The FA contended that these offences fell to be dealt with under the Sanction Guidelines as *"Bet placed on Participants competition but not involving his Club (including spot bet)"* and we agreed with that contention.

9. That being the case the sanction available to us was in two sections as below:

- Financial Entry Point – Any fine to include, as a minimum, any financial gain made from the bet(s) – Fine; and
- Sports sanction range – Suspended suspension (0 – 6 months to be determined by factors below) [Those ‘factors’ are considered below under the heading Mitigation].

#### **DOCUMENTATION:**

10. We had before us a substantial bundle of documentation consisting of 152 pages. Again no useful purpose would be gained by identifying each document herein for the same reasons as set out in paragraph 7 above.
11. All the documents had been read, noted and carefully considered by the Commission members prior to the date of hearing.
12. The main documents in the bundle were the 2 charge letters; the transcript of 2 interviews The FA had with Mr Demichelis and his legal advisers; and the extremely thorough and helpful replies by Mr Crespo Perez to the charge letters.

#### **MITIGATION:**

13. We repeat that we were pleased to hear that Mr Demichelis had no previous record of similar misconduct.
14. Very strong, forceful, persuasive and helpful mitigation was presented in writing by Mr Crespo Perez prior to the hearing and in person at the hearing.
15. Prior to hearing from Mr Crespo Perez, Mr Demichelis addressed the Regulatory Commission with the assistance of the interpreter, and we would like to express our thanks to the interpreter for his help and assistance and the professional manner in which he dealt with the hearing.
16. Mr Demichelis, without any doubt, is truly contrite and indeed incredibly embarrassed. He made an error which he accepts and admits was solely his fault. He is extremely regretful of his actions and it was noted that when addressing the Commission he became a little emotional.
17. He made an immediate and the fullest and the most frank admission and co-operated with the investigation by The FA. He voluntarily informed The FA of the further bets forming the 2<sup>nd</sup> charge although he could not remember the full details of those 17 further bets.
18. The reason for that was because the account had been closed and he could not recover the full information nor could he remember the detail. We accept that to be correct and The FA, quite properly in our opinion, did not contend that Mr Demichelis tried to conceal those further bets.

19. He never sought to blame anyone else but himself although he submitted that he did not fully understand the Rules but confirmed that he actually misdirected himself about them.
20. Mr Crespo Perez suggested that The FA should have some responsibility for not speaking to the players direct about the Betting Regulations but it transpired that the Club had a visit from The FA but only for the staff and not the players. Therefore we understand that the Club were made aware of the Rules but they, most surprisingly, did not pass the information on to the players even though the documentation was provided in a number of languages including Spanish.
21. The bets were all made in his own name, with absolutely no attempt to disguise his identity. He stated he was simply having 'fun' as opposed to attempting to make money from his betting and we accepted that contention.
22. There are only 29 bets albeit over a short period of time.
23. He did not place a single bet on any match in which he was a participant or on a match where he had particular knowledge or influence.
24. The total stake was in the sum of £9254.57 and his net profit was £2058.17. Considering the financial means of Mr Demichelis, the bets were modest with the highest stake being 1197 Euros, and thus he could not expect significant returns which really confirm he was betting for 'fun'.
25. There was no suggestion that he made use of any inside information and there was not even a suspicion of match fixing, which was confirmed by The FA. The integrity of the game was not in jeopardy.
26. For the sake of completeness, and in order to reach their decision on sanction, the Regulatory Commission took into account the following factors:
  - a. Overall perception of impact of bet(s) on fixture/game integrity;
  - b. Player played or did not play;
  - c. Number of bets;
  - d. Size of bets;
  - e. Fact and circumstances surrounding pattern of betting;
  - f. Actual stake and amount possible to win;
  - g. Personal circumstances;
  - h. Previous record – (any previous breach of betting Rules will be considered as a highly aggravating factor);

- i. Experience of the participant; and
- j. Assistance to the process and acceptance of the charge.

27. For the avoidance of doubt we were provided with Mr Demichelis net weekly wage but in our opinion that is a private matter between him and the members of the Commission and not for publication in these written reasons, but was a consideration in our deliberations.

**SANCTION:**

28. The Regulatory Commission came to the unanimous view that the following sanction was both fair and proportionate to the misconduct in question.

29. Mr Demichelis be warned as to his conduct.

30. He be fined the sum of £20,000.00 plus the profit made from the bets in question, namely £2,058.17 at the exchange rate for the 6<sup>th</sup> April 2016, that being a total fine of £22,058.17.

31. He is to pay a contribution of £1,000.00 towards the cost of the hearing.

32. The hearing fee of £100.00 be forfeited.

33. This decision is subject to the relevant Appeal Regulations.

Brian M. Jones (Chairman)

Stuart Ripley

Alan Hardy

Friday 20<sup>th</sup> May 2016.