

**BEFORE THE APPEAL BOARD**  
**OF THE FOOTBALL ASSOCIATION**

**IN THE MATTER OF**

**THE FOOTBALL ASSOCIATION**

**Appellant**

**and**

**ACCRINGTON STANLEY FC**

**Respondent**

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**DECISION AND WRITTEN REASONS**  
**OF THE APPEAL BOARD**

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**Appeal Board:**

Graeme McPherson KC (Chairperson)  
Daniel Mole  
Udo Onwere

**Secretary to  
Appeal Board:**

Michael O'Connor  
(Judicial Services Assistant Manager)

**Date:**

18 July 2025

**Venue:**

Remote hearing

**Appearances:**

Appellant - Will Martin

Andrew Phillips

Respondent – Nick De Marco KC

David Burgess (Managing Director)

Mark Turner (Club Secretary)

## **(A) Introduction**<sup>1</sup>

- 1) In June 2024 Accrington Stanley FC (*'the Club'*) signed a player (*'the Player'*). We refer to that as *'the Signing'*. The Player was represented by a representative (*'the Representative'*) in connection with the Signing. That representation took place pursuant to a representation agreement entered into between the Player and the Representative in February 2023 that remained in force in summer 2024.
- 2) The Representative was not in fact an FA Registered Agent at the time of the Signing, although he had previously been an FA Registered Intermediary.
- 3) On 12 July 2024 the FA received a new registration for the Player from the Club. The submitted paperwork included an AF1 Football Agent Declaration Form in its then current form, signed by the Club, the Player and the Representative:
  - a) The introductory wording of that AF1 was in the following terms: *'In accordance with the FA Football Agent Regulations (**Regulations**) this form ... must be completed in respect of any Transaction with a Club where an FA Registered Football Agent (**Agent**) has been involved on behalf of any of the parties ... Unless otherwise defined herein, definitions used are as set out in the Regulations ...*
  - b) The parties declared in the AF1
    - i) That the Player had *'used an Agent'* and identified the Representative as that Agent
    - ii) That the Club had not used an Agent
    - iii) That there had been *'no additional Agents involved in the transaction'*
  - c) All parties confirmed that the information contained in the AF1 was correct, complete and accurate to the best of their knowledge and that no other Agents (as defined) had been involved in the Transaction.

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<sup>1</sup> As will be apparent below, we have anonymized the names of the individuals whose conduct underlies this Charge. We see no reason why their names need be made public.

- 4) As the Representative was not an FA Registered Football Agent at the material time, an investigation was conducted by the FA into the Signing. The FA requested observations from the Club and by email dated 13 September 2024 the Club explained
  - a) That it had negotiated with the Representative for the purpose of the Signing,
  - b) That immediately before the Signing it had been told by the Representative that, having failed his agent's exam, he was not in fact an FA Registered Agent,
  - c) That the Signing had proceeded regardless of that fact, and
  - d) That following the Signing it had been told by the Representative that the FA would still accept his FA number for the purpose of enabling payment to be made to him in accordance with the FA Football Agent Regulations.
  
- 5) Regulation 10.5 of the Football Agent Regulations (***Regulation 10.5*** and ***the Regulations***) is in the following terms:
 

*'Players, Coaches and Clubs (and their Club Officials, when applicable) may not either directly or indirectly engage or attempt to engage in the following conduct:*

  - a) Engage or appoint a person who is not an FA Registered Football Agent to perform Football Agent Services<sup>2</sup> in relation to any conduct or activity that falls within the scope of these Regulations'.*
  
- 6) By letter dated 1 November 2024 (***the Charge letter***) the FA charged the Club with misconduct under FA Rule E1.2 (***the Charge***). The Charge alleged that, contrary to Regulation 10.5 the Club had *'engaged a person, namely [the Representative], who was not an FA Registered Football Agent to perform Football Agent Services'* in connection with the Signing.
  
- 7) Despite
  - a) Regulation 10.5(a) applying to Clubs and Players who engage or appoint a person who is not an FA Registered Football Agent to perform Football Agent Services in relation to any conduct within the scope of the Regulations,

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<sup>2</sup> Defined in Appendix 1 to the Regulations as meaning *'football-related services performed for or on behalf of a player, coach or club, including any negotiation, communication relating or preparatory to the same, or other related activity, with the purpose, objective and/or intention of concluding a Transaction'*. And *'Transaction'* is defined as including *'(i) the employment ...[or] registration of a player with a club (iii) the transfer of registration of player from one club to another ...'*

- b) The Player having engaged or appointed the Representative to perform Football Agent Services in relation to conduct within the scope of the Regulations (i.e. negotiation of the Signing),
  - c) The Representative having been a person who was not an FA Registered Football Agent at the relevant time, and so
  - d) The Player having *prima facie* acted contrary to Regulation 10.5(a)
- no similar charge was made against the Player. Although we asked the FA why that was, it was unable to offer any explanation.
- 8) By its Reply Form the Club (which was not legally represented) admitted the Charge. It requested a personal hearing so as to enable it
- a) To explain the factual background to the Charge, and so
  - b) To provide mitigation.
- 9) A hearing took place before a Regulatory Committee (*'the RC'*) on 1 May 2025 (*'the RC hearing'*). At the start of the RC hearing the RC
- a) Explained that the members of the RC had read the evidence relied upon by the FA to support the Charge (*'the FA's evidence'*). From that undisputed evidence it was common ground that the Representative
    - i) Had not been an FA Registered Football Agent at the time of the Signing,
    - ii) Had acted for the Player in connection with the Signing pursuant to a Representation Agreement dated 12 February 2023, but
    - iii) Had not been appointed to act by, and had not in fact acted for, the Club in connection with the Signing
  - b) Explained that in the light of that evidence, the RC had doubts as to whether the Charge was in fact made out on the basis of the FA's evidence. Those doubts related to whether or not the Club
    - i) Had in fact *'engaged or appointed'* the Representative in connection with the Signing, and so
    - ii) Had acted in a manner prohibited by Regulation 10.5(a)

- c) Invited the parties to address it on the question of whether the Charge was in fact made out on the basis of the FA's evidence.

10) After a short adjournment to allow

- a) The FA to seek instructions from its Agents' Regulation Team, and
  - b) The parties to prepare to address the RC on the issues raised by the RC
- the RC heard submissions from both parties as how the prohibition in Regulation 10.5 on '*engaging or appointing*' persons who are not FA Registered Agents to perform Football Agent Services should be interpreted.

11) In summary

- a) The Club (which was still not legally represented) submitted that the words '*engage or appoint*' should be given their ordinary meaning, and that since the Club had neither engaged nor appointed the Representative to act on its behalf in connection with the Signing, the RC's doubts as to the validity of the Charge were well founded. The Club accordingly applied to be allowed to change its plea to deny the Charge (which application the RC granted)
- b) The FA submitted
  - i) That '*engage*' and '*appoint*' had different meanings for the purpose of Regulation 10.5(a)
  - ii) That '*engage*' should be interpreted as meaning '*have dealings with*'
  - iii) That while the Club had not appointed the Representative to carry out Football Agent Services on its behalf in connection with the Signing
    - (1) The Representative had carried out Football Agent Services in connection with the Signing (on behalf of the Player), and
    - (2) The Club had '*engaged with*' (i.e. had had dealings with) the Representative while he had been carrying out such Football Agent Services – in particular, that the Club had engaged with the Representatives on the negotiations that led to the Signing.

12) On 6 May 2025 the RC dismissed the Charge and handed down Written Reasons for its decision to dismiss the Charge. The RC concluded

- a) That the correct approach to interpreting Regulation 10.5(a)
  - i) Was an objective one i.e. what the words would mean to a reasonable person in possession of all the relevant background information about the context in which the words are used, and
  - ii) Was to give the words therein their ordinary and natural meaning when read as part of the whole document in which they appear.
  
- b) That while the use of the discrete words ‘engage’ and ‘appoint’ in Regulation 10.5(a) *could* suggest that those terms were not intended to be synonymous (and thus that ‘engage’ was intended to have a different meaning to ‘appoint’)
  - i) Properly construed, the word ‘engage’ in Regulation 10.5(a) means entry into an arrangement with someone who would, pursuant to that arrangement, perform Football Agent Services for the engaging party. The RC concluded that that meaning was clear and unambiguous
  - ii) ‘Engage’ was not to be read as meaning ‘engage with’, in the sense of ‘have dealings with’
  - iii) The addition of the words ‘or appoint’ after engage did not change the ordinary and natural meaning of that word
  
- c) That since it was common ground that the Club had not ‘engaged’ or ‘attempted to engage’ the Representative to perform Football Agent Services for the Club in connection with the Signing at a time when the Representative was not an FA Registered Football Agent, the Club
  - i) Had not breached Regulation 10.5(a)
  - ii) Had not committed misconduct
  - iii) Was not guilty of the Charge.

13) We refer to that as ‘*the RC Decision*’.

14) The FA now appeals the RC Decision pursuant to Regulation 1.1 of the Appeal Regulations on the sole ground that the RC misinterpreted or failed to comply with the Rules and/or regulations of the Association relevant to its decision on the Charge, namely Regulation 10.5(a).

**(B) The hearing before us**

15) We heard the FA's appeal remotely via Microsoft Teams on 18 July 2025:

- a) Prior to the hearing we were provided with
  - i) The bundle of documents that had been before the RC, and
  - ii) Written submissions from both the FA and the Club.

We read those carefully before the start of the appeal hearing

- b) At the hearing we heard oral submissions from
  - i) Will Martin on behalf of the FA, and
  - ii) Nick De Marco KC on behalf of the Club.

16) We were greatly assisted by the written and oral submissions of both parties.

17) At the conclusion of the appeal we reserved our decision. We now set out our decision and the reasons for our decision.

**(C) Two over-arching matters**

18) The FA's appeal was founded on the submission that RC had erred

- a) In its construction/interpretation of Regulation 10.5(a), and
- b) In concluding that '*engage and appoint*' should be interpreted in the manner that we have summarised above and not in the manner contended for by the FA.

19) The nature of the FA's appeal raised two over-arching matters that we address before turning to the merits of the appeal.

**i) The approach to be adopted by an Appeal Board when a  
Regulatory Commission's interpretation of a Rule or Regulation is under scrutiny**

20) In *The FA v David Sturridge* (2 March 2020) the Appeal Board gave the following guidance on the approach to be taken when considering an appeal against a Regulatory Commission's interpretation of an FA Rule or regulation:

*'77 The interpretation of the Rules is an exercise in legal analysis; it is sometimes said that interpretation is a matter of law. Accordingly, if the interpretation of a provision of the Rules by a Regulatory Commission is properly characterised by an Appeal Board as a misinterpretation of that provision, the Board has no option but to correct the misinterpretation. It is not open to the Board to hold that the Commission's interpretation of the provision was reasonably open to it notwithstanding that the Board disagrees with the conclusion reached by the Commission.*

*78 In this appeal there is a dispute between the parties about whether the Commission correctly interpreted [the wording of the relevant Rules] ... In accordance with the approach described immediately above our task is to determine whether the Commission's interpretation was correct and, if it was not, to provide the correct interpretation of that part of the rule'.*

21) That approach was endorsed by the Appeal Board in The FA v Standing & Others (4 December 2024). That Appeal Board observed

*'12 The task of the Regulatory Commission was to ascertain the meaning of Regulation E8(i) and FA Rule E9. Our task is to consider whether the Regulatory Commission interpreted those provisions correctly. That task requires us as the Appeal Board to determine what we consider the proper construction and meaning of those provisions to be. If we conclude that the Regulatory Commission misinterpreted Regulation E8(i) and/or FA Rule E9 it is for us to provide the correct interpretation.'*

22) That is the approach that we adopted in this case.

## **ii) Principles of interpretation**

23) The FA Rules and regulations form a contractual framework between the parties who subscribe to those Rules and regulations. As a result, as has been stated in a number of previous decisions<sup>3</sup>, a Regulatory Commission or Appeal Board tasked with interpreting particular FA Rules or regulations should apply ordinary principles of contractual construction in order to do so.

24) Those well-established and well-known principles can be found in a number of the authorities that were provided to us<sup>4</sup> and that we read before the start of the hearing. For

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<sup>3</sup> See for example FA v Reading FC & Others (Regulatory Commission) 13 December 2023 @ paragraphs 74 & 77; The FA v Standing & Others (supra)

<sup>4</sup> For example Rainy Sky SA v Kookmin Bank [2011] UKSC 50 @ paragraphs 14 to 30; Arnold v Britton [2015] UKSC 36 @ paragraphs 14 to 23; Wood v Capita Insurance Services Limited [2017] UKSC 24 @ paragraphs 8 to 15.



present purposes we need do no more than confirm that we adopted those principles – in particular we sought to ascertain the objective meaning of the language used in the relevant FA Rules and regulations considering the ordinary meaning of the words used in the context of

- a) The Rules and regulations (and in particular, the Regulations) as a whole, and
- b) The relevant factual background to those Rules and regulations (and in particular, the Regulations).

25) The FA also submitted that, because the Rules and Regulations form a regulatory framework, when interpreting Regulation 10.5(a) we should

- a) Seek to identify the purpose for which FA had enacted the Regulations (which it submitted was ‘*ensuring that Transactions are only carried out by FA Registered Football Agents*’), which in turn meant seeking to identify the nature of the misconduct that the FA had intended to prohibit by the Regulations, and then
- b) Endeavour to construe Regulation 10.5(a) in a manner
  - i) That is consistent with that purpose, so as to ensure that such misconduct was indeed ‘caught’ by the Rules and regulations, and
  - ii) That does not result in misconduct which the Regulations were intended to catch falling outside the scope of the Regulations

The FA described this as interpreting the Regulations in a manner that achieves the regulatory purpose and avoids perverse outcomes.

26) That submission was similar to that made by the FA in, and rejected by the Appeal Board in, The FA v Standing (supra). In that case the Appeal Board observed

*‘The task of the body construing the relevant Rule or regulation is not to try to work out the scope of the conduct the FA might have subjectively intended or wished to ‘catch’ by the Rule or regulation and then ask itself whether the Rule or regulation can be construed, or is to be construed, in a way that achieves that subjective intention or wish. The task of the body construing the relevant Rule or regulation is*

- a) To determine what the Rule or regulation as drafted in fact means by applying ordinary principles of construction, and then*
- b) To ask itself whether the conduct that forms the subject of the relevant charge does or does not fall foul of the Rule or regulation as properly construed.’*

27) We respectfully agree with that observation, and confirm that we adopted an analogous approach when construing Regulation 10.5(a) on this appeal.

28) Both parties also addressed us on the application of the *contra preferentem* rule in this case. However, as we set out below, in our view the correct interpretation of Regulation 10.5 is clear. There was no need for us to consider the application of the *contra preferentem* rule.

#### **(D) The Appeal**

29) The FA made no criticism of the RC's formulation of the principles of construction to be applied to the interpretation of Regulation 10.5. Rather, the FA's case was that, having identified and purported to apply the correct principles, the conclusion reached by the RC as to the meaning of 'engage' in Regulation 10.5(a), and so as to how Regulation 10.5(a) should be interpreted, was simply wrong.

30) Both parties provided us with dictionary definitions of 'engage'. Both parties agreed that the word 'engage' could have different meanings in different contexts. Both parties agreed that the context in which the word 'engage' was used in the Regulations – and in particular, in Regulation 10.5(a) - was thus key.

31) The FA's starting point for its case was the fact that conduct prohibited by Regulation 10.5(a) covers both

- a) Engaging a person who is not an FA Registered Football Agent to perform Football Agent Services in relation to any conduct or activity that falls within the scope of the Regulations, and
- b) Appointing a person who is not an FA Registered Football Agent to perform Football Agent Services in relation to any conduct or activity that falls within the scope of the Regulations.

32) From that starting point, the FA submitted, given that Regulation 10.5(a) contains two distinct and discrete prohibitions

- a) It must be inferred that those prohibitions are not intended to be synonymous with one another

- b) ‘Engage’ and ‘appoint’ must therefore have different meanings for the purpose of Regulation 10.5(a) (and so must be intended to prohibit, and in fact prohibit, different types of misconduct)
  - c) Since ‘appoint’ has a narrow meaning of ‘assign a job or role’ to, ‘engage’ should be interpreted as having a different, wider meaning than that, since
    - i) ‘Engagement’ can take many forms, and
    - ii) Regulation 10.5(a) is to be interpreted as wide, not narrow, in ambit
  - d) Taken in context, the correct meaning of ‘engage’ in Regulation 10.5(a) is ‘*dealing with*’, ‘*being involved with or in*’ or ‘*participating with or in*’, so Regulation 10.5(a) should be interpreted as prohibiting Clubs from having dealings with, or having an involvement with or participating with, a person who is not a FA Registered Football Agent but who is nonetheless performing Football Agent Services in relation to any conduct or activity that falls within the scope of the Regulations (such as negotiating with a Club on behalf of a Player in connection with a Transaction).
- 33) We were unpersuaded by the FA’s submissions that ‘engage’ in Regulation 10.5(a) should be interpreted in that manner. There are in our view a number of significant flaws in the interpretation urged on us on behalf of the FA:
- a) First, the meaning of ‘engage’ for which the FA contends is in our view not the ordinary or natural meaning of that word, certainly when it is not followed by a preposition. When used in the context in which it appears in wording such as that found in Regulation 10.5(a) (‘... engage a person ... to perform ... services’) that word is in our view properly to be understood as having a meaning akin to retain, instruct or otherwise enter into an arrangement (either formally or informally) with a person whereby that person is to do something – such as provide services – pursuant to that engagement. It implies the creation of a relationship between (on the one hand) the relevant Player/Coach/Club and (on the other hand) the person who is to perform the Football Agent Services, not simply the occurrence of ‘dealings’ between them, or involvement on the part of the Club in a Transaction in which the person is performing Football Agent Services

- b) Secondly, although attractively put in a number of different ways, the crux of the FA's submission was that 'engage' in Regulation 10.5(a) should really be read as 'engage with' or 'be involved with' (in the sense of 'have dealings with') thus making it misconduct for a Club to 'engage with/be involved with/have dealings with a person who is not an FA Registered Football Agent ...'. But that is not what Regulation 10.5(a) says, and nor in our view can it be said that the ordinary and natural meaning of 'engage' is necessarily the same as 'engage with'. The addition of a preposition after the word 'engage' – engage with, engage in – will frequently change the natural and ordinary of meaning of 'engage' to something different. But unlike other instances where the word 'engage' is used in the Regulations, there is no preposition after the word 'engage' in Regulation 10.5(a)
- c) Thirdly, where the Regulations intend the natural and ordinary meaning of the word 'engage' to be changed by the addition of a preposition after that word, they use such a preposition. So for example
- i) The pre-ambble to Regulation 10.5 prohibits a Player, Coach or Club from engaging or attempting to engage in certain conduct, and
  - ii) There the word 'engage' plainly does not have the meaning summarised in subparagraph (a) above; 'engage in' references participation or involvement by the Club, Player or Coach in the forms of conduct thereafter listed
- d) Fourthly, the FA sought to persuade us that it would be odd if the word 'engage' in the preamble to Regulation 10.5 was to be given a different meaning to the word 'engage' in Regulation 10.5(a). But
- i) The FA is not comparing like with like. Regulation 10.5(a) uses the word 'engage ...'. The preamble to Regulation 10.5 uses the phrase 'engage in ...'. Those are different wordings that can, and in our view do, have different meanings
  - ii) A better illustration in our view is to be found when one compares the use of the word 'engage' in Regulation 10.5(a) with the use of that same word in the definition of 'Engaging Club' in the Regulations ('... a Club that may engage a player or coach'). Although the FA was reluctant to accept the same, the use of 'engage' in that definition is plainly intended to refer to scenarios of the type referenced in subparagraph (a) above. The definition is not intended to mean Clubs that may have dealings with or involvement with a player or coach.

And so while we agree that the word ‘engage’ should be interpreted consistently for the purpose of the Regulations unless different contexts suggest that the same word is to be given different meanings, that conclusion undermines, rather than supports, the FA’s position

- e) Fifthly, the context in which Regulation 10.5 appears within the Regulations – in a section titled ‘*Engagement of FA Registered Football Agents*’ - is consistent with ‘engage’ being intended to have its natural and ordinary meaning, not the wider meaning contended for by the FA.<sup>5</sup> So for example
  - i) Regulation 10.1 permits a Player, Coach or Club to ‘engage’ an FA Registered Football Agent to perform Football Agent Services. In that context ‘engage’ is plainly intended to have the meaning that we have summarised in sub-paragraph (a) above, not the wider meaning contended for by the FA. It would be odd if ‘engage’ was to have two different meanings in different limbs of Regulation 10
  - ii) Regulations 10.3 and 10.4 require disclosure of agreements with FA Registered Football Agents, not disclosure of ‘dealings with’ such a person
- f) Sixthly, the construction for which the FA contends is potentially fraught with difficulty. As the FA accepted, Regulation 10.5(a) does not require the Player, Coach or Club to have had any *mens rea* when ‘engaging’ the person who was not an FA Registered Football Agent; the liability for breaching Regulation 10.5(a) is strict. Taken to its logical conclusion, the FA’s interpretation would mean that any engagement or dealings by a Club with a person who was not an FA Registered Football Agent who was performing Football Agent Services<sup>6</sup> in relation to any conduct or activity falling within the scope of the Regulations would amount to misconduct
  - i) No matter how passive or trivial or innocuous that engagement<sup>7</sup>, and

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<sup>5</sup> We also agree with the Club’s submission that its case on the interpretation of ‘engage’ in Regulation 10.5 was consistent with the meaning of words such as ‘engage’ and ‘engaging’ used in the FIFA Football Agents Regulations (‘*FFARs*’). However, we ultimately placed no real weight on such matter, in large part because there was no evidence before us from which we were able to safely conclude that we could or should use the FFARs to assist our interpretation of the Regulations; from the materials before us the furthest that we could go was to say (1) that FIFA requires all national associations to adopt the FFARs, (2) that the Regulations represent the FA’s efforts to do so, and (3) the Regulations are not absolutely identical to the FFARs

<sup>6</sup> A term that the FA averred had ‘*an expressly wide ambit*’

<sup>7</sup> The example that we put to the FA was a Club who received a communication from an unregistered agent who was acting for a Player seeking a move to that Club and who, unasked, explained the terms on which the Player would be willing to move to the Club: (1) that person would be performing Football Agent Services in relation to

- ii) No matter how innocent and diligent the Player, Coach or Club might be in seeking to avoid having dealings or involvement with such a person
  
- g) The FA was reluctant to accept that that was an unintended consequence of the interpretation of Regulation 10.5(a) for which it was arguing. Instead it contended
  - i) That there would be occasions where (for example) a Club might ‘deal with’ or ‘have an involvement with’ an individual who (unknown to the Club) was not an FA Registered Football Agent but who was performing Football Agent Services in relation to any conduct or activity falling within the scope of the Regulations, without breaching Regulation 10.5(a) and so without such ‘dealings’ or ‘involvement’ amounting to Misconduct, and
  - ii) That there was no real difficulty in distinguishing between permissible and impermissible ‘dealings’ or ‘involvement’ with an individual who was not an FA Registered Football Agent who was performing Football Agent Services in relation to any conduct or activity falling within the scope of the Regulations i.e. that it was straightforward to identify when such dealings or involvement crossed the line into Misconduct
  
- h) We did not find those submissions persuasive:
  - i) The FA was wholly unable to identify where a dividing line between ‘permissible dealings with’ an unregistered agent, and ‘impermissible dealings’ with an unregistered agent might be drawn, let alone how a Club, Player or Coach that is subject to Regulation 10.5(a) might ascertain where that dividing line lies. That is a powerful point against the FA
  - ii) In fact, in our view Regulation 10.5(a) draws no distinction between ‘permissible’ and ‘impermissible’ dealings with/involvement with an individual who (unknown to the Club) was not an FA Registered Football Agent but who was performing Football Agent Services in relation to any conduct or activity falling

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conduct or activity falling within the scope of the Regulations, since (a) he had instigated a ‘*negotiation, communication relating to or preparatory to the same ... with the purpose, objective and/or intention of concluding a Transaction*’ (i.e. a Football Agent Service), and (b) that Football Agent Service was being performed in relation to an activity falling within the scope of the Regulations (i.e. a National Transaction); (2) the Club could, at least arguably, be said to be dealing with or having an involvement with that person simply by receiving that communication let alone by responding to it, even if it was wholly unaware at that time, through no fault of its own, that the person was not an FA Registered Football Agent; (3) the Club would thus, on the FA’s case, be in breach of Regulation 10.5(a).

within the scope of the Regulations. All such *'dealings'* or *'involvement'* would be a breach

iii) And while it would of course be open to the FA to legislate for any such engagement with an unregistered agent to amount to misconduct, such a wide-ranging prohibition that would require clear wording, and in our view, it is not what Regulation 10.5 in fact prohibits

i) Seventhly, interpreting *'engage'* in the wider manner contended for by the FA ignores the remainder of Regulation 10.5(a). Misconduct is committed only if

i) A Club engages *'a person who is not an FA Registered Football Agent'*, and

ii) That engagement (i.e. by the Club of the person who is not an FA Registered Football Agent) is *'to perform Football Agent Services'*.

It is not in our view a natural or correct reading of Regulation 10.5(a) to suggest that misconduct is committed merely because a Club *'engages with'* or *'has dealings with'* a person who is not an FA Registered Football Agent who just happens to have been appointed by a third party to perform Football Services in relation to conduct or activity falling within the Regulations. Regulation 10.5(a) requires there to be a connection between the Club's engagement of the individual and the individual's performance of Football Agent Services

j) Eighthly, although (as the RC recognised) the fact that Regulation 10.5(a) uses both *'engage'* and *'appoint'* might suggest

i) That the two words are not to be read as being synonymous with one another, and

ii) That the use of two words should be construed as evidencing an intention to prohibit two different types of conduct

as was submitted on behalf of the Club, the mere fact that *'appoint'* may have a natural and ordinary meaning does not of itself mean that *'engage'* should therefore be given a meaning other than its natural and ordinary meaning so as to ensure that it does not simply cover the same ground as *'appoint'*. In other words, we should not strain to give *'engage'* a meaning other than its natural and ordinary meaning simply because it appears in the phrase *'engage or appoint'* unless we are satisfied that, construed objectively, the Regulations intend that *'engage'* is to be construed as having some other meaning. And we were not so satisfied

- k) Ninthly, and in any event, we were not persuaded that ‘engage’ and ‘appoint’ were so similar in meaning that to interpret ‘engage’ in the manner that we have described in sub-paragraph (a) above adds nothing to the word ‘appoint’. We accepted the Club’s submission that an ‘appointment’ would often be thought to carry with a degree of formality that might well, by accident or design, be lacking in an ‘engagement’.

34) The FA also criticised the RC for concluding that a breach of Regulation 10.5(a) is committed only if a Player, Coach or Club engages a person who is not an FA Registered Football Agent to perform Football Agent Services on his/her/its behalf. Although of no practical consequence for this appeal – because of our conclusions

- a) That a breach of Regulation 10.5(a) is committed only if a Player, Coach or Club engages (in the sense explained above) a person who is not an FA Registered Football Agent to perform Football Agent Services, and
- b) That the Club did not engage the Representative to perform Football Agent Services in this case

- we agree that there is nothing express in Regulation 10.5(a) which requires the engagement to be for the performance of Football Agent Services for/on behalf of the party that has engaged the person who is not an FA Registered Football Agent. In other words, taken at face value Regulation 10.5(a) would also appear to prohibit a Player, Coach or Club from engaging a person who is not an FA Registered Football Agent to perform Football Agent Services for a third party in relation to any conduct or activity that falls within the scope of the Regulations, although we need not decide that point for the purpose of this appeal and so do not do so.

35) The FA sought to rely on that further alleged misinterpretation of Regulation 10.5(a) by the RC for two further purposes:

- a) Firstly, to support its submission that ‘engage’ should be construed as having a wide, rather than narrow meaning, since
  - i) Conduct prohibited by Regulation 10.5(a) is not limited to when services are performed for/on behalf of the Player, Coach or Club engaging the person, and
  - ii) Regulation 10.5(a) is drafted widely so as to catch the performance of Football Agent Services in relation to any conduct or activity falling within the scope of the Regulations



- b) But those matters do not support the FA's position on the central issue on this appeal. 'Engage' defines the relationship between (on the one hand) the Players, Coaches and Clubs and (on the other hand) the person performing the Football Agent Services. Those other matters relate to nature of the services so provided/to be provided by the person performing the Football Agent Services pursuant to that engagement for Regulation 10.5(a) to apply. The breadth of the latter has no meaningful impact on the interpretation of the former
- c) Secondly, to support its wider submission that the RC had wrongly construed the meaning of 'engage' *per se*. But as we have said above, we disagree that the RC wrongly construed the meaning of 'engage' in Regulation 10.5(a).

36) Finally the FA also sought to persuade us that by interpreting 'engage' narrowly, misconduct that was plainly intended to be caught by Regulation 10.5(a) would otherwise fall outside the scope of the Regulations and would not amount to Misconduct. The example given by the FA was a club that knowingly and deliberately deals with and negotiates with a player's unregistered agent (without 'engaging' that individual in the sense to which we have referred above) to secure the services of the player for the club.

37) The Club responded to that submission in three ways:

- a) Firstly, that conduct of the type given by way of example by the FA would not fall wholly outside the scope of the Regulations; while such conduct might not fall foul of Regulation 10.5, it would still fall foul of other Regulations
- b) We were not persuaded by that submission. Hypothetical conduct of the type identified by the FA may well in our view not amount to a breach by the Club of the additional Regulations (either individually or taken together as a whole) identified by Mr De Marco KC in his submissions. The FA may well therefore be right that the Club's construction of Regulation 10.5(a) could result in hypothetical conduct of the type described in paragraph 36 above not in falling being a breach of the Regulations

- c) Secondly, that even if the FA was right, a Club would still be guilty of Misconduct by virtue of FA Rule E14 if it failed to report the Misconduct of the Player in acting through an unregistered agent
- d) While that is an answer to the suggestion that a Club engaging in hypothetical conduct of the type described in paragraph 36 above might escape scot-free, it did not assist our interpretation of Regulation 10.5(a)
- e) Thirdly, that even if such conduct does fall outside the scope of the Regulations, it is not for us to rewrite the Regulations so that they catch (hypothetical) conduct that might not, on the ordinary and natural meaning of the words used in the Regulations, otherwise be caught by the Regulations
- f) For the reasons set out in paragraphs 25 to 27 above, we accepted that submission. If the FA is right that, on what we have found to be the correct construction of Regulation 10.5 particular conduct that it would wish to be Misconduct in fact falls outside the scope of that Regulation, the FA's remedy is to revise the relevant Regulations. The correct course is not for us to give Regulation 10.5(a) an unnatural and unordinary meaning simply so that such conduct is caught.

38) And as a post-script in that regard, we note that in amended FA Football Agent Regulations that came into force on 1 June 2025, Regulation 9.5 (as Regulation 10.5 has now become) now reads

*'Players, Coaches and Clubs (and their Club Officials, when applicable) may not either directly or indirectly engage or attempt to engage in the following conduct:*

*a) Engage **with** or appoint a person who is not an FA Registered Football Agent to perform Football Agent Services in relation to any conduct or activity that falls within the scope of these Regulations as set out in Regulation 1.1'.*

39) We pass no comment on whether that new wording would now be construed in the way that the FA has sought unsuccessfully to persuade us to construe Regulation 10.5(a). That question, should it ever arise, will be for a future Regulatory Commission to consider.

## **(E) Conclusions and Order**

- 40) Save in one respect that is of no consequence on this appeal, we reject the FA's case that the RC erred in its interpretation of Regulation 10.5(a). In our view the RC was correct to conclude that the use of the word '*engage ... a person*' in Regulation 10.5(a)
- a) Is to be interpreted as meaning entry into an arrangement (either formal or informal) with such a person, and
  - b) Is not to be interpreted as meaning '*engage with*', '*be involved with*' or otherwise '*have dealings with*' such a person.
- 41) The one respect in which we stop short of agreeing with the RC's interpretation of Regulation 10.5(a) relates to the RC's conclusion in paragraph 19 of the RC Decision that Misconduct for breach of Regulation 10.5 requires the Player, Coach or Club to have engaged the person who is not an FA Registered Football Agent to perform Football Agent Services for him/her/it. While not something that we need to decide for this appeal given our conclusion on the central issue, we note that there is nothing express in Regulation 10.5(a) which limits Misconduct to an engagement for the performance of Football Agent Services for/on behalf of the party that has engaged the person who is not an FA Registered Football Agent.
- 42) And so for the reasons set out above we dismiss the FA's appeal.

**Graeme McPherson KC (Chairperson)**

**Daniel Mole**

**Udo Onwere**

18 July 2025