

Football Association Regulatory Commission (the 'Commission') in the matter of a charge brought against Yerry Mina ('YM') of Everton FC ('EFC') for a breach of The FA's Betting Rules 2018-2019.

Regulatory Commission Decision

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat on Thursday 6th September 2019.
2. The Commission members were Mr. Stuart Ripley (Chairman), Mr. Paul Raven and Mr. Marvin Robinson.
3. Mr. Paddy McCormack, The FA's Regulatory Commissions and Appeals Manager, acted as Secretary to the Regulatory Commission.
4. The following is a summary of the principal submissions and evidence provided to the Commission. It does not purport to contain reference to all points made, however the absence in these reasons of any particular point, or submission, should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

Background

5. FA Rule E8(3) states – *An individual Participant, when acting in a personal capacity, shall not be permitted to advertise or promote any betting activity that the Participant is prohibited from engaging in by Rule E8(1) or E8(2).*
6. YM is 24 years old Colombian national. He is a professional footballer registered with EFC since August 2018. On 10th May 2019 it came to the attention of The FA that YM had participated in a promotional advertisement for a Colombian betting company, *Betjuego*.
7. Having sought observations from YM and EFC, by way of a Charge Letter dated 18th July 2019 The FA charged YM with Misconduct pursuant to FA Rule E1(b) in respect to advertising betting by participating in a televised advert for the company *Betjuego*.
8. YM admitted the charge by way of the FA's Disciplinary Proceedings Reply Form dated 15th August 2019. Attached to the Reply Form was a letter from EFC's Director of Football Operations and Club Secretary, David Harrison, which was counter signed by YM and also dated 15th August 2019. This letter set out in detail mitigation to the Charge on behalf of YM.
9. The mitigation put forward by EFC can be summarised as follows:

- a. YM has an exemplary disciplinary record in his career to date and has never been disciplined for any misconduct incident in relation to a breach of betting rules previously. He is a charitable person of good character.
- b. *Betjuego* is a Colombian betting company that does not operate in the UK and it is not possible to place a bet on *Betjuego's* website from the UK.
- c. The Advert was entirely in Spanish. It was not broadcast outside of Colombia and only aired for around one month because YM had demanded that the advert be removed as soon as he was informed that he was in breach of the FA's betting rules.
- d. YM's command of the English language is limited and he did not understand the information on betting when he attended a presentation put on by The FA at the start of the 2018/19 season.
- e. YM was not going to profit directly from the monies paid by *Betjuego* because the fee was earmarked to go to the '*Yerry Mina Foundation*' - a charitable organisation set up by YM in 2016 to help disadvantaged young people from his home town in Colombia.
- f. YM had admitted the charge at the earliest opportunity and had apologised for his mistake.

The Commission's Decision

10. The Commission consider breaches of the FA's Betting Rules to be a serious matter. It is important that the FA's Betting Rules are robustly upheld in order to protect the overall integrity of the game. This view is clearly also held by EFC with Mr Harrison stating in his letter, *"The Club also emphasised the seriousness of the issue to the Player and reminded him of his responsibilities under The FA Rules (i.e. that it is prohibited for a player to advertise or promote any betting activity in a personal capacity that he is prohibited from engaging in under The FA Rules, namely betting on football)."*
11. Notwithstanding the above, the Commission considered this to be an unusual case and recognised that strong mitigation had been put forward by the Player and his Club that significantly reduced YM's culpability in respect to the Charge. This was also the view of The FA who accepted in its written Submissions on Sanction that YM had *"significant mitigation"* that ought to be taken into consideration.
12. The Commission felt that a warning alone would be insufficient to reflect the seriousness of such a breach given that the integrity of the game is potentially threatened by breaches of the FA's Betting Rules. The Commission felt that the imposition of a fine would be appropriate and proportionate in the circumstances. However, the Commission also felt that the level of fine imposed on YM ought to reflect the *"significant*

mitigation” that had been put forward on his behalf. To this end the Commission took into consideration the level of gross weekly remuneration paid to YM by EFC which was declared within the Disciplinary Proceedings Reply Form.

13. Having taken all the mitigating and aggravating factors of the case into consideration the Commission felt that the following sanction was proportionate and appropriate in all the circumstances:

- a. YM is fined the sum of £10,000;
- b. YM is warned as to his future conduct.

Stuart Ripley

Regulatory Commission Chairman

6th September 2019