SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)

NO: SDRCC ST 24-0017

ONTARIO VOLLEYBALL ASSOCIATION (OVA)
(Interested Party)

AND

CARTER WALLS

(Respondent)

AND

DEPUTY DIRECTOR OF SANCTIONS AND OUTCOMES

Before

Aaron Ogletree
(Arbitrator)

DECISION

Appearances and Attendances:

On behalf of the Interested Party:	Elliot P. Saccucci Alessia G. Grossi Amanda Franker-Shuh
On behalf of the Respondent:	Carter Walls
On behalf of the DDSO:	David Kellerman

PROCEDURAL HISTORY

1. This Request for Safeguarding Hearing was made by Ontario Volleyball Association (the "Interested Party"), a sport organization governing volleyball in Ontario, pursuant to the Canadian Sport Dispute Resolution Code (hereinafter the "Code") to challenge the decision of the Deputy Director of Sanctions and Outcomes (hereinafter the "DDSO" and collectively, hereinafter the "DDSO's decision") dated April 3, 2024, regarding his findings on violations pursuant to the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (hereinafter the "UCCMS") and sanctions regarding Mr. Carter Walls (hereinafter the "Respondent"), a volleyball coach.

2. The Interested Party filed a formal complaint (the "Complaint") with the Office of the Sport Integrity Commissioner (hereinafter the "OSIC") on February 9, 2023 alleging that the Respondent engaged in Prohibited Behaviours and/or Maltreatment as set out in section(s) 5.2, 5.3, 5.5, 5.6, 5.7 and 5.13 of the UCCMS.

3. On March 23, 2023, the OSIC prepared a Statement of Allegations outlining the 19 allegations against the Respondent which occurred prior to September 2018.

4. On March 26, 2023, the Director of Sanctions and Outcomes (hereinafter the "DSO") referred this matter and the OSIC's recommendation to the DDSO.

5. On April 4, 2023, the DDSO imposed the following provisional sanctions on the Respondent:

> 1. Eligibility Restriction: The Respondent is provisionally prohibited from engaging in any Program Signatory coaching activities with vulnerable parties or youth athletes (i.e. U25), including those affiliated with a P/TSO or the NSO.
> 2. Prohibition on Contact: The Respondent is provisionally prohibited from being in contact (directly or indirectly, whether in person or by any means of communication) in any capacity with youth (i.e. U25) in Program Signatory activities (including in any club, P/TSO, and/or NSO level).

6. On April 18, 2023, the OSIC prepared a Statement of Additional Allegations concerning alleged incidents that occurred between 2020 and 2023 alleging that the Respondent: a) communicated confidential information received from the OSIC; b) enabled a coordinated campaign to express support for him; c) shared confidential information in breach of the OSIC Confidentiality Policy and misrepresented the context of information in the Complaint; and d) communicated one-on-one with Minor athletes.

7. On July 12, 2023, the OSIC prepared another Statement of Additional Allegations concerning incidents that occurred between May and June 2023, alleging that the Respondent again contravened the OSIC Confidentiality Policy by communicating information received from the OSIC.

8. Ms. Paula Butler of Southern Butler Price LLP (hereinafter the 'Investigator') conducted interviews with 11 individuals from August 23, 2023 to March 5, 2024.

9. The Investigator contacted two potential witnesses, who are mothers of two of the athletes referenced in the Investigator Report, but they refused to be involved in the investigation, and three more potential witnesses did not respond to the Investigator's attempts to contact them.

10. The Investigator applied the test set by the British Columbia Court of Appeal in the case of *Faryna v Chorny*, [1952] 2 DLR 354, when material facts were in dispute in assessing credibility. The Investigator also considered the two distinct aspects of credibility, honesty and reliability, in determining credibility. These aspects of credibility are endorsed by the decision in *AB v Joe Singer Shoes Limited*, 2018 HRTO 107 and upheld in *Joe Singer Shoes Limited v AB*, 2019 ONSC 5628.

11. On April 2, 2024, the Investigator submitted the Investigation Report to the OSIC. The Investigation Report outlines the investigation process regarding the 24 alleged violations of the UCCMS made against the Respondent. The Investigator Report found Allegations 5 and 24 were substantiated and provided reasons. The Investigator Report also states:

> *Allegation 8 – Physical contact that is not for the benefit of the athlete*
> The Allegation is that the Respondent was upset that parents were talking about him massaging an "athlete's butt" (Witness J). The Respondent said he was only massaging Witness J's hamstrings and their mother was present. As well, the Respondent was advised to remove his massage table from SSL, as he was only the trainer and not qualified in massage therapy, and he should no longer massage anybody.
>
> […]
>
> <u>Respondent</u>
>
> The Respondent advised that he had never massaged an athlete's buttocks. He said he did have a massage table at SSL, and it was used to facilitate stretching of players. He said he was not asked to remove it from his facility and confirmed he was not a massage therapist or a physiotherapist.
>
> <u>Findings of Fact</u>
>
> I find that I cannot substantiate that the Respondent was massaging Witness J's buttocks. I find that the Respondent had a massage table at his gym, and that on occasion he was massaging athletes with injuries. I find that he was asked to remove his massage table from the gym.

12. On April 3, 2024, the DDSO rendered the DDSO's Decision finding that the Respondent committed Boundary Transgressions and Interference with or Manipulation of Process, but the Respondent did not commit Psychological Maltreatment, Physical Maltreatment, Sexual Maltreatment and Grooming. The DDSO's Decision was based on the Investigation Report, Statement of Allegations dated March 23, 2023, Statement of Additional Allegation dated April 18, 2023 and July 12, 2023, the UCCMS, the

Investigation Guidelines, and materials he considered appropriate to understand the context of the framework and matters related to the Complaint.

13. The DDSO's Decision also immediately lifted the provisional measures, but it required that the Respondent complete an accredited Ethics and Boundaries program within three months of receipt of the DDSO's Decision.

14. On April 24, 2024, the Interested Party submitted an Appeal of the DDSO's Decision dated April 3, 2024 and challenged the findings on violations under the UCCMS and sanctions contained in the DDSO's Decision.

15. On May 6, 2024, the SDRCC appointed me from its rotating list of arbitrators to make a determination on the Interested Party's appeal.

16. On May 7, 2024, a preliminary conference call was held in which the Interested Party indicated that it intended to bring an application for a Disclosure Order in order to obtain a copy the Investigator's file. The parties all agreed to a timetable for the Application for Disclosure.

17. On June 3, 2024, the Interested Party filed its submissions for its Application for Disclosure.

18. On June 10, 2024, the DDSO filed his submissions on the Interested Party's Application for the Disclosure of the Investigator's file.

19. On June 14, 2024, the Respondent filed his submission on the Interested Party's Application for the Disclosure of the Investigator's file.

20. On June 21, 2024, I issued a short decision on the issue of disclosure.

21. On July 2, 2024, I issued a reasoned written decision on the issue of disclosure, stating that:

    The Interested Party's request for the entire Investigator's file is denied, but the Interested Party shall receive access to or a copy of the following in the Investigator's file if within the possession or control of the Director of Sanctions and Outcome and Deputy Director of Sanctions and Outcomes:

    a. The Investigator's notes with redactions of notes regarding the confidential personal information of witnesses and matters other than this one,
    b. Documents submitted by witnesses that they wished to have considered with a redaction regarding confidential personal information of witnesses, and
    c. Written or video recorded witness statements with a redaction of confidential personal information.

22. On August 6, 2024, the second preliminary meeting was held.

23. On August 8, 2024, the DDSO requested an extension to comply with the order.

24. On August 9, 2024, the Interested Party responded to the request.

25. On August 10, 2024, the DDSO followed up regarding its efforts to comply with the order.

26. On August 23, 2024, I granted the extension of the deadline to produce documents requested by the DDSO.

27. On August 29, 2024, the third preliminary meeting was held.

28. On September 3, 2024, the Interested Party filed its submissions requesting the Tribunal to enforce the Order and order the DDSO to comply with its other requests.

29. On September 10, 2024, the DDSO filed his submissions.

30. On October 3, 2024, the Respondent filed his submissions.

31. On October 10, 2024, the Interested Party filed its reply submissions.

32. On October 24, 2024, I issued a reasoned written decision on the issue of disclosure, stating that:

    The Disclosure Order has been enforced and Interested Party's requests are denied.

33. On December 16, 2024, the Interested Party's proposed submissions schedule was adopted after receiving no objections regarding the proposed submissions schedule filed by any of the Parties within seven days.

34. On January 31, 2025, the Interested Party filed its submissions requesting that the Safeguarding Tribunal exercise its power to set aside the Sanction Decision and substitute its own decision ordering: a) A suspension of two (2) years based on the grounds above and the Presumptive Sanctions outlined in section 7.3(b) of the UCCMS; and b) Such further and other relief as the Safeguarding Tribunal deems appropriate.

35. On February 25, 2025, the DDSO filed his submissions.

36. On March 7, 2025, the Respondent filed his submissions.

37. On March 13, 2025, the Interested Party filed its reply submissions.

Relevant Provisions

OSIC Guidelines

38. Section 4(e) of the OSIC Guidelines Regarding Investigation of Complaints (hereinafter the "OSIC Guidelines") governing gathering of evidence states:

> The Independent Investigator(s) will take reasonable steps to investigate the Complaint on a fair and neutral basis, in accordance with the Policies & Procedures. In this regard, the Independent Investigator(s) will:
> - determine what process should be used to gather the evidence (e.g. forms of interview(s), written questions, etc), considering in particular the privacy, safety and well-being of the interviewee(s), which witnesses to interview, what evidence is relevant and the weight to give the evidence;
> - align with Section 8 of the Canadian Sport Dispute Resolution Code regarding admissibility of evidence provided by minors and vulnerable persons;
> - in accordance with the OSIC Confidentiality Policy, provide appropriate details of the allegations to the complainant and to the respondent and provide a reasonable opportunity for the complainant and the respondent to consider and review the allegations before an interview begins;
> - take appropriate steps to preserve a record of all interview(s) conducted;
> - collect potentially relevant evidence from third parties and other available sources.

39. Section 4(h) of the OSIC Guidelines governing an Investigation Report provides:

> Following their review and analysis, the Independent Investigator will provide a written Investigation Report to the OSIC that should include in particular:
> - The mandate of the Independent Investigator;
> - An overview of the process used to investigate the allegations;
> - A summary of the evidence obtained – and the resulting findings of facts;
> - If applicable, identification of relevant mitigating or aggravating circumstances; and
> - If applicable, identification of any systemic or other issues identified.
>
> A summary Investigation Report shall also be produced by the Independent Investigator.

40. Section 4(i) of the OSIC Guidelines governs the review of the Investigation Report and provides as follows:

> The OSIC shall review the Investigation Report to validate that it contains the elements required under section 4.h. above and that the Investigation was completed in accordance with the Policies & Procedures. The OSIC may take further steps as required to address any procedural concerns with the Investigation. However, the OSIC will not review or make an assessment on the merits of the findings, observations and/or conclusions, as applicable, of the Independent Investigator(s).

41. Section 4(k) of the OSIC Guidelines outlines the challenge of a finding in an Investigation Report as follows:

> Any party who objects, during an ongoing Investigation, to an Investigation step or procedure, should promptly advise the OSIC of their objection, and may also advise the Independent Investigator. Such objection during the Investigation does not constitute independent grounds for challenge before the Safeguarding Tribunal. Any challenge to the Investigation step or procedure must be made as part of a challenge to the Safeguarding Tribunal pursuant to Sections 8.6 and 8.7 of the Canadian Sport Dispute Resolution Code on the decision regarding whether a violation of the UCCMS and/or other relevant code/policy is substantiated once this is

communicated to the party by the DSO. The Safeguarding Tribunal shall make no award of costs.

42. Section 1 of the Abuse-Free Sport Policy Regarding Violations and Sanctions lists the background of the policy stating that:

> 1. BACKGROUND As part of the Abuse-Free Sport Complaint Management Process, once a Complaint or Report has been submitted to the Office of the Sport Integrity Commissioner (the "OSIC") and an Investigation has concluded, the Independent Investigator will provide a written Investigation Report to the OSIC. The OSIC will provide the Investigation Report to the Director of Sanctions and Outcomes of Abuse-Free Sport, or, where applicable, the Deputy Director of Sanctions and Outcomes (the "DSO"). Pursuant to its authority granted by Abuse-Free Sport, the DSO shall review the findings of the Investigation Report and is obligated to (i) make a determination of whether there has been a violation of the Universal Code of Conduct to Prevent and Address Maltreatment in Sport ("UCCMS"); and (ii) determine and impose the appropriate sanction, if any. For a complete list of definitions used in this Policy, please refer to the Inventory of Abuse-Free Sport Definitions at Appendix I. Other defined terms in this Policy have the meanings ascribed to them in the UCCMS.

UCCMS Sections

43. Section 5 of the UCCMS governing Prohibited Behaviour states:

> 5.1 Violations of the UCCMS
> It is a violation of the UCCMS for a Participant to engage in the behaviours described in this Section. It may be that conduct constituting Prohibited Behaviour falls into more than one of the categories of this Section. It is the assessment of the conduct itself that is important, not into which category or categories it falls.

44. Section 5.3 of the UCCMS identifies Physical Maltreatment and states that:

> 5.3.1 Physical Maltreatment includes contact or non-contact infliction of physical harm.
> a) Contact behaviours: without limitation, deliberately punching, kicking, beating, biting, striking, strangling or slapping another; deliberately hitting another with objects; providing a massage or other purported therapeutic or medical interventions with no specific training or expertise.
> b) Non-contact behaviours: without limitation, isolating a person in a confined space; forcing a person to assume a painful stance or position for no athletic purpose (e.g., requiring an athlete to kneel on a hard surface); the use of exercise for the purposes of punishment; withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep; denying access to a toilet; providing alcohol to a Participant who is under the legal drinking age; providing illegal drugs or non-prescribed medications to a Participant; encouraging or permitting an athlete under their authority to return to play following any injury, including after a concussion, when they knew or ought to have known that the return is premature, or without the clearance of a medical professional where reasonably required; encouraging an athlete to perform a potentially dangerous skill for which the Participant knows or ought to know that the athlete is not developmentally ready.
> 5.3.2 Physical Maltreatment is determined by the behaviour viewed objectively, not whether harm is intended or results from the behaviour.

45. Section 5.7 of the UCCMS identifies Boundary Transgressions stating that:

5.7 Boundary Transgressions
5.7.1 Identifying a Boundary Transgression is dependent on context, including the age of the persons involved and the existence of a Power Imbalance. It may be the case that a particular act or communication does not meet the threshold of any of the types of Maltreatment, but is an act or communication that is nonetheless viewed as inappropriate in the circumstances. The assessment of the behaviour should consider whether the behaviour would raise concern in the mind of a reasonable observer, what objective appears to be guiding the interaction, and whose needs are being met. Even if the act in question does not, on its own, objectively cause harm to another person, a Boundary Transgression is nonetheless an act that should be corrected in order to ensure the safety and security of all members involved in sport, recognizing that Boundary Transgressions are often part of the Grooming process.
5.7.2 Recognizing that there may be a need to be flexible in the way in which such Boundary Transgressions are addressed, a Boundary Transgression may trigger review of the circumstances and potentially be resolved informally, or a formal conduct review may be initiated.
5.7.3 Consequences can range from formal disciplinary action to simply recording the circumstances and its resolution and retaining it in the record of the Participant in the event future Boundary Transgressions occur. A repeated Boundary Transgression after a consequence should be treated seriously.
5.7.4 The concept of Boundary Transgressions is intended to be broad in scope. By way of example and not limitation, a Boundary Transgression may be a circumstance where:
a) one person uses contact information available to the person for the purpose of sport, to make contact with a person for a purpose that is not related to sport;
b) a Participant uses or attempts to use a line of communication with another person that is not within the typical communication channels;
c) communicating privately with a Minor through social media or text;
d) a Participant inappropriately shares personal photographs;
e) a Participant arranges for or engages in inappropriate sharing of locker rooms;
f) one-on-one meetings that are not held in an open and observable environment;
g) there is inappropriate private travel or transportation; and
h) providing personal gifts.

46. Section 5.13 of the UCCMS defines what is an Interference with or Manipulation of Process violation stating that:

5.13.1 It is a violation of the UCCMS for a Participant to directly or indirectly interfere with or manipulate an investigation or disciplinary review process by:
a) knowingly destroying, falsifying, distorting, concealing, or misrepresenting information, with the intent to interfere with or influence the resolution process
or the implementation of an outcome;
b) attempting to discourage or prevent a person's proper participation in or use of
the processes;
c) harassing or intimidating any person involved in the processes before, during, and/or following any proceedings;
d) failing to comply with any temporary or provisional measure or final sanction;
e) influencing or attempting to influence another person to interfere with or manipulate the process; or
f) distributing or otherwise publicizing materials a Participant gains access to during a UCCMS investigation or hearing, except as required by law or as expressly permitted.
5.13.2 All Participants are expected to act in good faith throughout any investigation or disciplinary review process, and the sole purpose of Section 5.13 is to provide a means to discipline those who do not. In recognition that a victim/survivor, of sexual abuse in particular, may conceal information out of embarrassment, shame or to protect the perpetrator, absent demonstrable bad faith, minimizing or concealing in such circumstances is not a UCCMS violation.

47. Section 7 of the UCCMS governs the range of possible sanctions stating that:

7.2 Types of Sanctions
Different incidents constituting a violation of the same part of the UCCMS may arise out of markedly different circumstances, including various case-specific aggravating and/or mitigating factors as described in Section 7.4. However, progressive discipline is not required as a single occurrence of Prohibited Behaviour can lead to a very significant sanction. Subject to Section 7.3, if Prohibited Behaviour is confirmed one or more of the following sanctions may be imposed:
7.2.1 Verbal or Written Apology
The requirement that a Participant issue a verbal, written or online apology to acknowledge the Prohibited Behaviour and its impact on others.
7.2.2 Verbal or Written Warning
A verbal reprimand or an official, written notice and formal admonition that a Participant has violated the UCCMS and that more severe sanctions will result should the Participant be involved in other violations.
7.2.3 Education
The requirement that a Participant undertake specified supplemental educational or similar remedial measures to address the Prohibited Behaviour.
7.2.4 Probation
A probationary period may include a loss of privileges or other conditions, restrictions, or requirements for a specified period of time. Any further violation of the UCCMS during the probationary period will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility.
7.2.5 Suspension
Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, practice, activity, event, or competition organized or sanctioned by any Adopting Organization and/or its members. A suspended Participant may be eligible to return to sport but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension.
7.2.6 Eligibility Restrictions
Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions.
7.2.7 Permanent Ineligibility
Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition organized or sanctioned by any Adopting Organization and/or its members.
7.2.8 Other discretionary sanctions
Other sanctions for Prohibited Behaviour may be imposed, including, but not limited to, other loss of privileges, loss of right to attend or spectate sport events, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate.
7.3 Presumptive Sanctions
7.3.1 The following sanctions are presumed to be fair and appropriate for the listed Maltreatment, but the Respondent may rebut these presumptions:
a) Sexual Maltreatment involving a Minor shall carry a presumptive sanction of permanent ineligibility;
b) Sexual Maltreatment, Physical Maltreatment with contact, Grooming, and Prohibited Behaviour described in Sections 5.9 to 5.14 shall carry a presumptive sanction of either a period of suspension or eligibility restrictions;
c) While a Respondent has pending charges under the Criminal Code regarding allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until a final determination is made by the applicable UCCMS enforcement process.
7.3.2 Failure to comply with a previously imposed sanction will result in automatic suspension until such time as compliance occurs.
7.4 Sanctioning Considerations

Any sanction imposed against a Participant must be proportionate and reasonable, relative to the Maltreatment that has occurred. Factors relevant to determining appropriate sanctions for a Respondent include, without limitation:
a) The nature and duration of the Respondent's relationship with the affected individuals, including whether there is a Power Imbalance or position of trust;
b) The Respondent's prior history and any pattern of Prohibited Behaviour or other inappropriate conduct;
c) Any previous disciplinary findings regarding, or sanctions against, the Respondent;
d) Maltreatment of a Minor or of a Vulnerable Participant is to be considered an aggravating circumstance;
e) The ages of the persons involved, including when the Respondent is a Minor, whereby Maltreatment by a Minor of a child under the age of 12 or of a Vulnerable Participant is to be considered an aggravating circumstance;
f) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
g) The Respondent's voluntary admission of the violation(s), acceptance of responsibility for the Prohibited Behaviour, and/or cooperation in the applicable UCCMS enforcement process;
h) Real or perceived impact of the incident on the affected individuals, sport organization or the sporting community;
i) Deterrent effect on future such conduct;
j) Potential impact on the public's confidence in the integrity of the Canadian sport system;
k) Aggravating or mitigating circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the UCCMS; addiction; disability; illness; lack of remorse; intent to harm);
l) Whether, given the facts and circumstances that have been established, the Respondent's continued participation in the sport community is appropriate;
m) Whether the Respondent was found to have committed of one or more previous UCCMS violation(s);
n) The desired outcomes of the person(s) directly impacted by the Prohibited Behaviour; and/or
o) Other mitigating and aggravating circumstances.
Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.

SDRCC Code Sections

48. Section 8.6 of the Code governs the challenge of a violation and/or sanction and provides:

> (a) A challenge of a DSO decision on a violation or a sanction can be made by the Respondent or an Interested Party;
> (b) When assessing a challenge of a DSO decision on a violation or a sanction, the Safeguarding Panel shall apply the standard of reasonableness.
> (c) Notwithstanding Section 3.10, a challenge of a DSO decision on a violation or a sanction will be heard by way of documentary review only, except as agreed otherwise by the Safeguarding Panel.
> (d) In the event the Party challenging a violation establishes bias on the part of the Person having investigated the allegation or the Person having decided on the violation, a hearing de novo must be held before the Safeguarding Panel on the matter of the violation.
> (e) A decision of the Safeguarding Panel on a violation shall be final and binding and shall not be appealable to the Appeal Tribunal.
> (f) The Safeguarding Panel shall have the power to increase, decrease or remove any sanction imposed by the DSO, with due consideration being given to the UCCMS. In particular, where the Safeguarding Panel determines that the Respondent has presented or presents a risk to the

welfare of Minors or Vulnerable Persons, the Safeguarding Panel shall impose such sanction and/or risk management measures as it deems fair and just.

49. Section 8.7 of the Code governs the grounds for challenging a decision on a violation or a sanction, as follows:

> A DSO decision on a violation or a sanction may only be challenged on the following grounds:
> (a) Error of law, limited to:
> (i) a misinterpretation or misapplication of a section of the UCCMS or applicable Abuse Free Sport policies;
> (ii) a misapplication of an applicable principle of general law;
> (iii) acting without any evidence;
> (iv) acting on a view of the facts which could not reasonably be entertained; or
> (v) failing to consider all the evidence that is material to the decision being challenged.
> (b) Failure to observe the principles of natural justice. The extent of natural justice rights afforded to a Party will be less than that afforded in criminal proceedings, and may vary depending on the nature of the sanction that may apply. Where a sanction involves the loss of the opportunity to volunteer in sport, the extent of those rights shall be even lower, as determined by the Safeguarding Panel; and
> (c) New evidence, limited to instances when such evidence:
> (i) could not, with the exercise of due diligence, have been discovered and presented during the investigation or adjudication of the allegations and prior to the decision being made;
> (ii) is relevant to a material issue arising from the allegations;
> (iii) is credible in the sense that it is reasonably capable of belief; and
> (iv) has high probative value, in the sense that, if believed, it could, on its own, or when considered with other evidence, have led to a different conclusion on the material issue.

ARGUMENTS

Interested Party's Position:

50. The Investigation and the resulting Investigation Report contain a number of reviewable errors in determinations on violations of the UCCMS, including:
    a) Misinterpreting and misapplying sections of the UCCMS, including those on Physical Maltreatment;
    b) Misapplication of general principles of law, including treatment of evidence;
    c) Acting on view of facts which could not be reasonably entertained, including in light of the Investigator's own contradictory findings;
    d) Failing to consider all the evidence that is material to the decision, including by failing to give material eye-witnesses notice of, and an opportunity to respond to material evidence; and
    e) Failing to observe principles of natural justice by denying material eyewitnesses, de facto complainant, notice of, and opportunity to respond to, material evidence.

51. The Sanction Decision is plagued with all of the same errors because it simply adopts the Investigation Report, making it reviewable by the Safeguarding Tribunal.

52. The following issues are to be addressed by the Safeguarding Tribunal: (1) Did the DDSO render a Sanction Decision that was unreasonable because it misinterpreted and misapplied sections of the UCCMS? More specifically:

    a) Did the DDSO make an error of law and render an unreasonable Sanction Decision when it failed to find violations of the UCCMS (i.e. Physical Maltreatment), despite the Investigation Report concluding that this misconduct had occurred?
    b) Did the DDSO make an error of law and render an unreasonable Sanction Decision when it failed to impose the presumptive sanction for violations of the UCCMS that were substantiated by the findings in the Investigation Report?

53. The Sanction Decision still warrants intervention from the Safeguarding Tribunal because it fails to address the Physical Maltreatment violation, and fails to apply the Presumptive Sanction.

54. The Respondent should have been sanctioned with the Presumptive Sanctions, being a period of suspension or eligibility restrictions based on the substantiated allegations and violations.

55. The sanction imposed against the Respondent ought to reflect the nature, duration, and severity of his violations. Pursuant to Section 7.4 of the UCCMS, the following factors are relevant to determining appropriate sanctions of the Respondent in this case:
    a) The duration of the Respondent's relationship with the affected individuals lasted for years;
    b) The Respondent had a history and pattern of engaging in Boundary Transgressions, including hugging athletes;
    c) The Respondent was warned on multiple occasions that his behaviour was inappropriate;
    d) The athletes were minors at the time of the violations;
    e) The Respondent has not accepted responsibility for the Prohibited Behaviours and instead has denied any culpability; and
    f) The Respondent violated the confidentiality requirements surrounding the Investigation – a factor that is crucial to the integrity of the Investigation.

    A suspension of least two (2) years is warranted based on these factors.

56. The sanction imposed on the Respondent must be comparable but more severe than those imposed on the coach in *Krystopher Barch v. Hockey Canada*. The Respondent's conduct occurred over a long period of time, included Boundary Transgressions directed toward female children under the age of majority, and was repeated despite being warned to stop.

57. In this challenge of the Sanction Decision, the Safeguarding Tribunal is empowered to intervene and address the foregoing reviewable errors pursuant to Section 8.7 of the Code, including the (i) misapplication and misinterpretation of the UCCMS; (ii) misapplication of general principles of law; (iii) acting on a view of the facts that could

not be reasonable entertained; (iv) the failure to consider all material evidence; and (v) the failure to observe principles of natural justice.

58. Subsection 8.6(f) of the Code expressly empowers the Safeguarding Tribunal to increase any sanction imposed by the DDSO and, where the Respondent has presented a risk to the welfare of minors, the Safeguarding Tribunal is obliged to impose such sanctions and risk management measures as it deems fair and just in the circumstances.

59. In view of all of the foregoing, the Interested Party requests that the Safeguarding Tribunal exercise this power in setting aside the Sanction Decision and substituting its own decision ordering: a) A suspension of two (2) years based on the grounds above and the Presumptive Sanctions outlined in section 7.3(b) of the UCCMS; and b) Such further and other relief as the Safeguarding Tribunal deems appropriate.

60. Contrary to the submissions advanced by both the DDSO and the Respondent, the Interested Party has made no attempts to relitigate the matter presently before this Tribunal.

61. The Interested Party has properly raised multiple grounds to challenge the DDSO Decision on violations and sanctions pursuant to Subsections 8.7(a)(i), 8.7(a)(ii), 8.7(a)(iv), 8.7(a)(v), 8.7(b), and 8.7(c) of the Code.

62. The Interested Party has done everything it is able to do in the circumstances, since:
    a) The DDSO failed or refused to disclose the materials from the Investigator's file that this Tribunal determined were relevant and ought to have been disclosed; and
    b) The Investigator failed to provide the de facto complainant in the Investigation with an opportunity to provide reply evidence.

63. The DDSO has still, even in its submissions to this Tribunal, not articulated a cogent basis for departing from the presumptive sanctions pursuant to the UCCMS, based on its own findings of breaches under the UCCMS.

64. The DDSO has also declined or failed to provide reasons for it not finding a Physical Maltreatment violation under the UCCMS, despite the findings of the Investigation Report which substantiate this violation.

65. The Tribunal must substitute the DDSO's sanction with its own, which it is expressly empowered to do pursuant to Subsection 8.6(f) of the Code, with due consideration afforded to the UCCMS.

DDSO's and Respondent's Position

66. The DDSO's Report on Violations and Sanctions does not contain an error of law.

67. The DDSO correctly applied and interpreted the sections of the UCCMS which pertain to the Maltreatment when it found that the Respondent had only been in violation of the UCCMS on Allegations 5 and 24.

68. The DDSO acted on the basis of a thorough 28-page Investigation Report.

69. The DDSO found no flaws or inconsistencies in law or in fact in the Investigation Report.

70. The Investigation Report diligently investigated the 24 allegations that were in the Statement of Allegations and contained clear findings on all 24 allegations.

71. The Investigator gave a detailed account of all witnesses that were interviewed and explained how each witness contributed to the Investigator's findings.

72. The DDSO's sanctions are reasonable and proportionate to the findings on violation.

73. The Interested Party has not raised a ground in Section 8.7 of the SDRCC Code to successfully appeal the DDSO's findings on violations and sanctions.

74. The Interested Party is attempting in their submissions to relitigate the issues on which the Investigator made clear findings.

75. The forum provided on appeal does not afford the parties the opportunity to argue the facts presented before the Investigator unless the Investigator and the DDSO clearly misunderstood the facts presented by the parties and witnesses. The Interested Party has failed to reveal any error in the interpretation of the facts.

76. The Safeguarding Tribunal's role pursuant to Subsections 8.6 (a), (b) and (f) of the Code is to determine if it is appropriate to increase, decrease or remove any sanction imposed by the DDSO, and in doing so, the Tribunal must apply the standard of reasonableness. The Tribunal may also maintain the DDSO's findings on violations and sanctions and dismiss the Interested Party's challenge.

77. The DDSO is not an investigator nor a fact finder. The role of the DDSO is to receive an investigation report and make findings on possible violations of the UCCMS. When the DDSO considers it appropriate, it can impose sanctions in accordance with the UCCMS as well as the DDSO's policies and procedures.

78. The role of the DDSO is to interpret the investigation findings and the UCCMS and related policies and procedures, in order to determine whether a violation of the UCCMS has occurred, and, in the event of a violation or violations, decide on the appropriate consequences.

STANDARD OF REVIEW

79. Subsection 8.6(b) of the Code states that when assessing a challenge of a DSO decision on a violation or a sanction, the Safeguarding Panel shall apply the standard of reasonableness. Further, the parties agree that the standard of review should be reasonableness regarding any sanction. This appeal will proceed as a review of the decision applying a reasonableness, or deferential, standard. (*See* Barch v. Hockey Canada, SDRCC 23-068 and Jackson v. Hockey Canada, SDRCC 24-0748).

80. A reasonableness review is a "robust form of review" of the adjudicator's decision, according to the guidance in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65. The review must "focus on the decision the administrative decision maker actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker's place." (para. 15) In other words, both the outcome and the reasons that justify the outcome must be reasonable. (*See* Barch v. Hockey Canada, SDRCC 23-068 and Jackson v. Hockey Canada, SDRCC 24-0748). Pursuant to a reasonableness review, the challenging party must show that any shortcomings or flaws are "sufficiently central or significant to render the decision unreasonable." *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, para. 100.

DECISION

81. The validity of the Interested Party's request to find that the DDSO rendered a Sanction Decision that was unreasonable depends on whether the DDSO: a) made an error of law because the facts in the Investigation Report as it pertains to Allegation 8 amount to a violation of the UCCMS; b) made an error of law with his sanction decision based on the findings of Allegations 5 and 24 of the Investigation Report; c) misapplied the law by accepting and adopting the Investigation Report that found Witness J's and the Respondent's evidence as credible and reliable; d) failed to consider all material evidence by accepting and adopting the Investigation Report; and e) failed to observe principles of natural justice by accepting and adopting the Investigation Report.

A. Did the DDSO make an error of law because the facts in the Investigation Report as it pertains to Allegation 8 amount to a violation of the UCCMS?

82. The DDSO made an error of law based on the findings of Allegation 8 in the Investigation Report because the facts in the Investigation Report as it pertains to Allegation 8 amount to a violation of the UCCMS pursuant to Sections 5.1, 5.3.1(a) and 5.3.2. Section 5.1 governs violations of the UCCMS. Section 5.3.1(a) states that providing a massage or other purported therapeutic or medical interventions with no

specific training or expertise is a contact behaviour that constitutes Physical Maltreatment. Section 5.3.2 adds that Physical Maltreatment is determined by the behaviour viewed objectively instead of whether harm is intended or results from the behaviour. Section 7.3(b) states that Physical Maltreatment with contact shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.

83. The Interested Party argues that the DDSO was required to find that the Respondent engaged in Physical Maltreatment and a violation based on a plain reading of the UCCMS when the Investigator made the finding that the Respondent provided massages without specific training. Further, the only possible conclusion based on the findings of the Investigation Report and the language of the UCCMS is that a breach occurred. Therefore, the DDSO's finding that there was no breach of the UCCMS and no Physical Maltreatment is an unreasonable decision.

84. In contrast, the DDSO and the Respondent state that the Investigator diligently investigated the allegations that were in the Statement of Allegations and contained clear findings on all allegations. There are no flaws or inconsistencies in law or in fact in the Investigation Report. The DDSO's sanctions are therefore entirely reasonable and proportionate to the findings on violation. In addition, the Interested Party has not raised a ground in Section 8.7 of the Code to successfully appeal the DDSO's findings on violations and sanctions.

85. The DDSO's decision may be challenged on the ground of an error of law in accordance with Subsection 8.7(a)(i) of the Code. Further, the DDSO's claim that the Interested Party has not raised a ground in Section 8.7 of the Code to successfully appeal the DDSO's findings on violations and sanctions should have been raised by motion to dismiss.

86. The Investigator did not find the Respondent massaged Witness J's buttocks. The Investigator did not even specifically make a finding on whether or not the Respondent massaged Witness J on any other part of Witness J's body. Instead, the Investigator went beyond Allegation 8 which just focused on Witness J. The Investigator found that on occasion the Respondent was massaging athletes with injuries and that he had a massage table at his gym. The Investigator stated that the Respondent admitted that "he was not a massage therapist or a physiotherapist", but the Investigator did not make a finding on whether or not the Respondent had the specific training or expertise to provide a massage or other purported therapeutic or medical interventions.

87. It is unreasonable to find that the Respondent did not engage in Physical Maltreatment contact behaviour based on the Investigator's finding that the Respondent was "massaging athletes" combined with the Respondent's admission that "he was not a massage therapist or a physiotherapist" pursuant to the Investigation Report. As a result, I substitute the DDSO's finding with my finding that the Respondent engaged in Physical Maltreatment, contact behaviour.

B. Did the DDSO make an error of law with his sanction decision based on the findings of Allegations 5 and 24 of the Investigation Report?

88. The DDSO did not make an error of law with his sanction decision based on the findings of Allegations 5 and 24 of the Investigation Report. Sanctions under 7.3(b) of the UCCMS are presumed to be fair and appropriate for the listed Maltreatment offenses of Physical Maltreatment with contact, Grooming, and Prohibited Behaviour described in Sections 5.9 to 5.14. Further, such a violation shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.

89. The Interested Party contends that the DDSO failed to impose presumptive sanctions contrary to Section 7.3.(b) without adequate reasons with respect to the DDSO adopting the finding that the Respondent violated the UCCMS by engaging in Prohibited Conduct with respect to both Allegations 5 and 24. Further, the DDSO implementing education requirements fall below the presumptive sanctions for the violations. The Interested Party adds that the DDSO never mentioned Section 7.3(b) in the Sanction Decision. Further, the imposition of Provisional Measures during the Investigation is not a Sanction.

90. The DDSO and Respondent argue that the DDSO's sanctions are entirely reasonable and proportionate to the findings on violation.

91. The DDSO's sanctions are reasonable and proportionate to the findings on violation. It is true that the DDSO's sanction decision does not mention section 7.3(b). However, the DDSO cited Section 7.2 of the UCCMS which provides the types of sanctions that can be considered in the event of a finding of a violation of the UCCMS, including the type of presumptive sanctions listed in section 7.3(b) of the UCCMS. Further, the DDSO provided his justifications for the sanction decision in a transparent and intelligible manner as follows:

> 1. The fact that there is a manifest Power Imbalance between the Respondent and the athletes he coached, because of their coach-athlete relationship, which is considered an aggravating circumstance (per 7.4(a)).
> 2. The fact that Respondent had a history of hugging athletes (7.4(b)).
> 3. The fact that the Respondent was coaching Minor athletes at the time of the violation (7.4(c)).
> 4. The fact that the Respondent denied ever hugging athletes despite 8 witnesses' claims to the contrary. The Respondent also denied having been warned about hugging athletes by the LVC. The Respondent does not show awareness about how his conduct could impact the athletes he coaches. I take into consideration what I consider to be Respondent's lack of introspection (7.4(g)).
> 5. The fact that Respondent admitted having communicated details of the complaint received from the OSIC to Randeep Sarai, Pascale St-Onge, Mark Eckert and Marie-Claude Asselin.

The DDSO also considered:

> [T]he Provisional Measures in effect since April 4, 2023, the Respondent is issued a formal notice he has violated section 5.7 of the UCCMS and is warned that more severe sanctions will result should the Respondent be involved in other violations.

In doing so, the DDSO did not state that provisional measures are a sanction or replacement for a sanction, instead he indicated that it is factor that he considered in deciding an appropriate sanction. Further, each of the factors that the DDSO provided for his sanction decision are relevant to determining appropriate sanction for a respondent pursuant to Section 7.4 of the UCCMS, which governs sanctioning considerations. In addition, looking at all the factors provided in the DDSO's sanction decision for the two violations and considering them as a whole is a reasonable decision.

C. Did the DDSO misapply the law by accepting and adopting the Investigation Report that found Witness J's and the Respondent's evidence as credible and reliable?

92. The Investigation Report findings of Witness J's and the Respondent's evidence and the DDSO adoption of it are not a misapplication of general law.

93. The Interested Party alleges that the Investigation Report's findings of Witness J's and the Respondent's evidence as credible and reliable are a misapplication of general law. Further, the Investigator acted on a view of facts that could not reasonably be entertained with respect to Respondent due to his inconsistent statements through the Investigation.

94. In contrast, the DDSO and Respondent state that they found no flaws or inconsistencies in law or in fact in the Investigation Report. In fact, the Investigator gave a detailed account of all witnesses that were interviewed and explained how each witness contributed to the Investigator's findings.

95. The Investigator Report's assessment of Witness J's and the Respondent's credibility and reliability as witnesses are reasonable. There may be differences of opinion on finding of facts when material facts are in dispute, but that does not equate to flaws. The Investigator Report states that:

> Where there were material facts in dispute, in assessing credibility, I have applied the test set by the British Columbia Court of Appeal in the case of Faryna v Chorny, [1952] 2 DLR 354, which is as follows: The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanor of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of the witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.
>
> In reaching my findings on credibility, I considered the two distinct aspects of credibility: honesty and reliability. The decision in AB v Joe Singer Shoes Limited, 2018 HRTO 107, upheld in Joe Singer Shoes Limited v AB, 2019 ONSC 5628, endorses these two aspects of credibility: 106 I also have relied on the observations on credibility assessment made in R. v. Taylor, 2010 ONCJ 396, cited by the Tribunal in Soheil-Fakhaei v. Canadian Business College, 2012 HRTO 172 as follows: "Credibility" is omnibus shorthand for a broad range of factors bearing on an assessment of the testimonial trustworthiness of witnesses. It has two generally

> distinct aspects or dimensions: honesty (sometimes, if confusingly, itself called "credibility") and reliability. The first, honesty, speaks to a witness' sincerity, candour and truthfulness in the witness box. The second, reliability, refers to a complex admixture of cognitive, psychological, developmental, cultural, temporal and environmental factors that impact on the accuracy of a witness' perception, memory and, ultimately, testimonial recitation. The evidence of even an honest witness may still be of dubious reliability. Testimonial evidence can raise veracity and accuracy concerns. The former relate to the witness's sincerity, that is his or her willingness to speak the truth as the witness believes it to be. The latter concerns relate to the actual accuracy of the witness's testimony. The accuracy of a witness's testimony involves considerations of the witness's ability to accurately observe, recall and recount the events in issue. When one is concerned with a witness's veracity, one speaks of the witness's credibility. When one is concerned with the accuracy of a witness's testimony, one speaks of the reliability of that testimony. Obviously a witness whose evidence on a point is not credible cannot give reliable evidence on that point. The evidence of a credible, that is honest witness, may, however, still be unreliable. (R v. Morrissey para 205) 107 Depending on the circumstances, some portions of a witness' testimony may be more credible or worthy of belief than other portions. Accordingly, I can, with good reason, accept all, some or none of any witness' evidence: see R. v. R.E.M., 2008 SCC 51, at para 65 ("R.E.M.")
>
> In my assessment of the evidence of those interviewed, applying this legal test and in consideration of the documentary evidence in this case, I make […] findings with respect to credibility.

96. The Investigator Report substantiated that "[t]he Respondent became significantly involved in Witness J's life, helping them through difficult times." The Investigator Report highlights and makes this finding of fact regarding this relationship because it is fact that the Investigator is considering when assessing Witness J's evidence. The Investigator Report also states:

> Applying this test and for the reasons set out above, where there is a conflict in the evidence, I have considered the totality of the evidence, and prefer the evidence of Witnesses D, E, F, G, H, I, and J and the evidence of the Respondent over the evidence of Witness A and Witness B.

In doing so, the Investigator assessed that Witness J is one of seven witnesses whose evidence she finds preferable when there is a material dispute of facts.

97. The Investigator Report assessed that "most of the Respondent's evidence [is] credible and reliable" and sometimes it was not credible. The Investigator has discretion. The Investigator is not required to find the Respondent or any witness uncredible and/or unreliable because when looking at the totality of the evidence, she prefers the evidence of a witness over another witness, or that the evidence of a witness with respect to an allegation is inaccurate.

98. The Investigator Report appears to have approached her assessment of both Witness J's and the Respondent's evidence in a reasonable and professional manner. In doing so, it appears that appropriate findings of fact were made based on that evidence they provided, including the Investigation Report's finding with respect to Allegation 5.

D. Did the DDSO fail to consider all material evidence by accepting and adopting the Investigation Report?

99. The Investigation Report considered all material evidence with interviews of 11 individuals, including Witness A, and providing them with an opportunity to submit documents they wished to have considered.

100. The Interested Party argues that the Investigator and the DDSO failed to consider all evidence material to decision. Further, Witness A's reply evidence was never collected, was not considered, and does not form part of the Investigation Report nor the Sanction Decision. This new evidence meets the requirements outlined in Subsection 8.7(c) of the Code and is another ground to review the Sanction Decision.

101. The DDSO and the Respondent state that the Interested Party is attempting in their submissions to relitigate the issues on which the Investigator made clear findings. The forum provided on appeal does not afford the parties the opportunity to argue the facts presented before the Investigator unless the Investigator and the DDSO clearly misunderstood the facts presented by the parties and witnesses. The Interested Party has failed to reveal any error in the interpretation of the facts.

102. The Interested Party's submissions constitute an attempt to reargue the matter. The Interested Party does not claim that the Investigation Report listing Witness A as a witness, not a party or specifically as a complainant, is one of the errors. In doing so, the Interested Party wants a witness, not a party or the Complainant, to have an opportunity to respond, provide evidence to impeach the Respondent's version of events, respond to the Respondent's various denials, provide additional evidence, and identify additional independent witnesses. The Interested Party has the burden of proof and it has pointed to no law or policy providing a witness with such rights. Instead, the Interested Party tries to change Witness A's status from being a witness to a de facto complainant to justify its claim that Witness A has such rights. On May 9, 2024, the parties in this case at the first preliminary meeting were asked if other parties besides the DDSO, the Interested Party, and the Respondent would participate as a party to these proceedings and the possibility of Volleyball Canada participating was mentioned, but never Witness A. Witness A had the opportunity to at least attempt to participate in the proceedings beyond being a witness, but did not do so.

103. Witness A's evidence does not constitute new evidence because Witness A previously had the opportunity to submit evidence when the Investigator solicited evidence from them.

104. The Investigation Report notes that witnesses, including Witness A, were interviewed and given the opportunity to both have a support person present and to present documents. The Investigation Report even notes that the Investigator reached out to

several potential witnesses who did not respond to her. The Investigation Report considered all material evidence.

E. Did the DDSO fail to observe principles of natural justice by accepting and adopting the Investigation Report?

105. The DDSO did not fail to observe principles of natural justice by accepting the Investigation Report.

106. The Interested Party states that the Investigator failed to observe principles of natural justice by denying Witness A notice of, and an opportunity to respond to, material evidence, which would have changed the outcome of the Investigation. In doing so, the Investigator failed to consider all evidence material to the decision.

107. The DDSO and the Respondent argue that the 28-page Investigation Report diligently investigated the allegations that were in the Statement of Allegations and contained clear findings on all allegations. The Investigator gave a detailed account of all witnesses that were interviewed and explained how each witness contributed to the Investigator's findings.

108. A reasonableness review does not include a re-argument of the merits of a decision. There is no evidence the Investigator acted in a prejudicial matter or denied any witness the opportunity to provide any evidence or arguments they wished to make.

109. In fact, the Investigation Report states that witnesses, including Witness A, were interviewed and were also provided with an opportunity to submit documents that they wished to have considered. The Investigation Report notes that all documents provided were reviewed and considered. Further, the Investigation Report states that the Complainant is not Witness A. There is no right to notice of and/or an opportunity to respond to material evidence for a mere witness.

110. As a Federal Court of Appeal held:

> …[I]nvestigators have a wide latitude regarding how they conduct investigation; they are not required to turn over every stone nor can they be held to a standard of perfection: *Holm v. Canada (Attorney General)* 2006 FC 1170 at paras 40-41. In other words, the Court generally will not order a new proceeding just because an applicant can think of a fairer or different process: Olienik v Canada (Privacy Commissioner), 2011 FC 1266 at para 10. (*Shelly Whitelaw v. Attorney General of Canada and Royal Canadian Mounted Police*, 2024 FC 1115, at para. 23).

F. Determination of Sanction

111. A two-month suspension of the Respondent is an appropriate sanction for the violation of Physical Maltreatment, contact behaviour. The presumption sanction is to either apply a period of suspension or eligibility restrictions pursuant to Section 7.3. In this matter, I find the following factors pursuant Section 7.4 and otherwise to be of particular relevance:

1. The fact that there is a manifest Power Imbalance between the Respondent and the athletes he coached, because of their coach-athlete relationship, which is considered an aggravating circumstance.
2. The fact that the Respondent was coaching Minor athletes at the time of the violation.
3. The fact that the Respondent has a history of on occasion massaging athletes with injuries.
4. The fact that the Respondent was asked to remove his massage table from the gym a massage table at his gym, and he removed it.
5. The fact that the Respondent admitted that he was not massage therapist or a physiotherapist.
6. The fact that the Respondent does not show awareness about how his conduct could impact the athletes he coaches. I take into consideration what I consider to be Respondent's lack of introspection.
7. The fact that the DDSO previously found that the Respondent committed both Boundary Transgressions and Interference with or Manipulation of Process.
8. The Respondent was required to complete an accredited Ethics and Boundaries program.
9. The fact that there were Provisional Measures in effect, the Respondent was issued a formal notice he had violated section 5.7 of the UCCMS and was warned that more severe sanctions would result should the Respondent be involved in other violations.

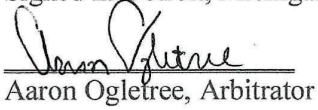
AWARD

112. The DDSO made an error of law based on the findings of Allegation 8 in the Investigation Report because the facts in the Investigation Report as it pertains to Allegation 8 amount to a violation of the UCCMS pursuant to Sections 5.1, 5.3.1(a) and 5.3.2 of the UCCMS.

113. A two-month suspension from any program, activity, event, or competition sponsored by Volleyball Canada is a reasonable sanction pursuant to Sections 7.2, 7.3(b), and 7.4 of the UCCMS.

114. The remainder of the Interested Party's claims are dismissed.

Signed in Detroit, Michigan, United States of America this 31st of March, 2025.



Aaron Ogletree, Arbitrator