RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: Holiday Inn, Farnborough

DATE: 12 March 2009

Coach: Mark PICKERING Club: Farnborough RFC

Match: Aldershot & Fleet RFC ("A&F") v Farnborough RFC ("FRFC")

Venue: Aldershot Park Date of match: 3 January 2009

Panel: Jeremy Summers (Chairman) Jonathan Dance and Paul Murphy ("the

Panel")

Secretary: Bruce Reece-Russel

RFU Presenter: Gerard McEvilly

In attendance:

Farnborough

Mark Pickering ("the Coach")
Gary Allcock – Hon. Secretary
Mark Allen – player
Mrs J Pickering – supporter

Aldershot & Fleet

Malcolm Thomas – President Merrik Knight – Hon. Secretary and Assistant Coach Duncan Coombes - Player Mrs C Green – supporter

Hampshire RFU (as observers)

Jed Stone – Disciplinary Secretary Mick Chalk – Disciplinary Chairman

PRELIMINARIES

- 1. The Panel convened to hear the following matters alleged against the Coach:
 - a. A citing brought by A&F alleging that the Coach been guilty of conduct prejudicial to the interests of the Union and the Game contrary to Rule 5.12 of the Rules of Rugby Football Union in that he had encouraged acts of

foul play during the match between A&F and FRFC on 3 January 2009. This offence was denied.

- b. A citing brought by A&F alleging that the Coach been guilty of conduct prejudicial to the interests of the Union and the Game contrary to Rule 5.12 of the Rules of Rugby Football Union in that he had used foul and/or abusive language during the match between A&F and FRFC on 3 January 2009. This offence was admitted.
- c. A citing brought by A&F alleging that the Coach been guilty of conduct prejudicial to the interests of the Union and the Game contrary to Rule 5.12 of the Rules of Rugby Football Union in that he had struck the A&F Secretary/Assistant Coach during the match between A&F and FRFC on 3 January 2009. This offence was denied
- 2. The Coach did not object to the composition of the Panel.
- 3. As the Coach was unrepresented, the Panel took care to outline the procedure to be followed during the hearing, and to ensure that all parties were clear as to the core of the allegations made and the defence advanced in response to those allegations. No preliminary issues were raised.
- 4. Although the matters for consideration by the Panel arose from citings by A&F, the charges were formally brought by the RFU Hampshire RFU having exercised its right to surrender back to the RFU its delegated powers in respect of these proceedings pursuant to the RFU Disciplinary Regulations ("DR")¹.
- 5. The Panel considered:
 - a. Evidence from Martin Thomas.
 - b. Evidence from Merrik Knight.
 - c. Evidence from Duncan Coombes.
 - d. Evidence from Mrs Green.
 - e. Evidence from the Coach.
 - f. Evidence from Mrs Pickering.

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¹ DR 2.3.4

- g. A series of 13 photographs produced by the Coach and marked by the Panel as A-M.
- h. Written statements from Stephen Jeat, Barry Warner, Antony Wakeford and Lisa Mead.
- i. Submissions from Mr McEvilly.
- j. Submissions from the Coach.
- k. Submission in mitigation from Mr Allcock.

THE RFU CASE

MALCOLM THOMAS

- 6. Mr Thomas is A&F President. He described a scrappy and tense local cup derby, and expressed the view that FRFC were being given a tougher game than they had perhaps expected. FRFC play in a higher league than A&F.
- 7. He stated that he heard the Coach give his half time team talk. This had included encouraging one of his substitutes who was to come on during the second half to "take out" an opponent. Mr Thomas was unable to identify who that opponent might have been. The Coach had been speaking with clenched fists and Mr Thomas was in no doubt as to his intention. It was common ground that the substitute concerned (a M. Blandin who was the subject of separate proceedings) had taken the field after half time and then engaged in a series of acts of foul play.
- 8. Mr Thomas stated that the Coach had used a torrid of bad language against a number of players and in particular Stephen Jeat an A&F substitute who had at one stage improperly run on to the pitch. The Coach's bad language included both the "f" word and the "c" word. There had been a good crowd and in particular FRFC had brought with them some fantastic support. The crowd included women, some twenty children and a number of sponsors.
- 9. An A&F supporter, who we now knew to be Mr Coombes, had then become involved and asked the Coach if he condoned violence. This led to an exchange of words between the Coach and Mr Coombes. Merrick Knight, the A&F Secretary and Assistant Coach on the day, interjected and told Mr Coombes not to get involved. At this point the Coach had taken exception and attacked Mr Knight by pushing him with his open hands on his chest and

- 10. Mr Thomas was clear that Mr Knight had not approached the Coach or attacked him in any way.
- 11. The Coach commenced his cross examination of Mr Thomas by commendably apologising to all concerned for his foul during the game which he accepted was wholly inappropriate. He produced 13 photographs which the Panel asked to be marked A to M. The Coach then referred Mr Thomas to photographs d C and D which showed Mr Knight with his hands in front of him. Mr Thomas accordingly accepted that Mr Knight could not have had his hands in his pockets throughout the incident as he had recalled in his statement.
- 12. It was put to Mr Thomas that the Coach's wife could be seen in the photographs to be holding Mr Knight back. The Coach put it to Mr Thomas that she would not have done so had Mr Knight not been attacking him (the Coach) rather than the other way around as was being alleged. Mr Thomas confirmed that the Coach had attacked Mr Knight and that Mr Knight had not at any stage retaliated.
- 13. Mr Thomas considered that the Coach had travelled some three to four metres to the point where he came into contact with Mr Knight and that it was this action that had led to the melee described above. The Coach had struck Mr Knight between four and six times.
- 14. Mr Thomas was questioned by the Panel as to whether what he had heard could have amounted to an instruction to "take out" an opponent in accordance with the laws of the game. Mr Thomas did not think that this could have been the case noting that the Coach appeared aggressive, vindictive and intimidating. He also made the point that the Coach was addressing his remark to M. Blandin who was known as a persistent offender.

Merrik Knight

- 15. Mr Knight described the game and its general atmosphere in similar terms to Mr Thomas. He too felt that FRFC were surprised by the opposition mounted by A&F, to such an extent that A&F were ahead at half time.
- 16. Mr Knight indicated that the Coach has used persistent and foul language and this was aimed at players on both sides although mainly A&F. This included "every word imaginable"
- 17. However, Mr Knight had not heard the half time conversation referred to by Mr Thomas in which M. Blandin had allegedly been encouraged to act violently.
- 18. He stated that shortly after M. Blandin had come onto the pitch the atmosphere had changed and he referred to an incident where M. Blandin had stamped and then punched an A&F player. It was this that had led to the verbal exchange between Mr Coombes and the Coach referred to by Mr Thomas.
- 19. Mr Knight then indicated that an exchange had ensued between him and the Coach. This culminated with the Coach making a reference to Mr Knight's weight and the fact that he "couldn't count calories".
- 20. At that juncture Mr Pickering had walked away but Mr Knight had nevertheless taken one or two paces towards the Coach, at which point the Coach turned round and began to assault Mr Knight. This consisted of the Coach pushing him with his open hands on his chest and face causing him to stagger back into the rope by the pitch. He thought that he had been pushed at least five or six times.
- 21. He was adamant that he had not in any way assaulted the Coach before being attacked. The position then progressed to a point where he and the Coach were head to head. At this point Mr Knight accepted that his hands were out of his pockets, and this was reflected in the photographs produced

by the Coach. However Mr Knight was clear that his hands had been in his pockets whilst Mr Pickering was pushing him and that they had only come out of his pockets as he staggered back towards the rope.

- 22. In cross examination, Mr Knight confirmed that he had not heard any conversation between the Coach and M. Blandin. He also confirmed that the atmosphere on the day had not been assisted by the fact that A&F included in its squad Mr Kyle Lovell. Mr Lovell had previously been an FRFC player who had then moved on contract to Bridgend RFC. Mr Knight stated that he was unhappy that Mr Lovell had been selected for this fixture.
- 23. When asked by Panel to explain why, once the Coach had walked away from Mr Knight following their verbal exchange, he had nevertheless carried on walking towards him, Mr Knight said he wanted the Coach to explain his comments. He did not believe that action could have been interpreted by the Coach as threatening. He believed by this point the Coach had lost all self control and that he had acted in a way that was not his normal nature.
- 24. Mr Knight had no recollection of being held back by the Coach's wife or anyone else. He reiterated his evidence that he had at no time attacked the Coach.
- 25. In his view these pictures C and D as referred to above had been taken after he had been pushed by the Coach and in this respect he noted that the pictures showed him against the rope. He also pointed to the fact that there was a slight reddening to his cheek which he claimed had been caused by the Coach having pushed his face with open hands.

Duncan Coombes

- 26. Coombes is an A&F played but had been a spectator at the match. He confirmed he could be seen in picture C.
- 27. He indicated that he had been about six to eight feet from the incident. He had heard the half time conversation referred to by Mr Thomas. He recalled the Coach as having been aggressive and saying words to the effect that if he

- did not care knew or liked an opponent, who was unidentified, but that he (M. Blandin) should get on and sort him out.
- 28. He then gave evidence as to the various acts of foul play involving M. Blandin and that the Coach had been very upset by an A&F (Mr Jeat) running onto the pitch following one such incident. He couldn't recall all the words used by the Coach but described them as "aggressive, abusive and colourful". He confirmed that he had then spoken with the Coach and that Mr Knight had then told him not to get involved.
- 29. Significantly in the Panel's view, Mr Coombes went on to say that the Coach had taken off the sunglasses before going over to Mr Knight. He had seen both gentlemen make contact with their heads but had not seen any contact involving hands. The incident lasted about 15 seconds and resulted in the general melee already referred to. He was clear that the Coach had been the aggressor and that Mr Knight had not attacked the Coach at any time.
- 30. In cross examination Mr Coombes stated at the time that the Coach had been about six or eight feet away from Mr Knight before approaching him. He had not then seen either the Coach's or Mr Knight's hands during the incident that ensued.
- 31. In response to questions from the Panel, Mr Coombes confirmed that he saw the Coach go towards Mr Knight and take off his glasses. Similarly he reiterated that Mr Knight had not approached the Coach.
- 32. He though agreed that there was a reasonably long period of time, perhaps up to twenty minutes between the conversation he had referred to and M. Blandin taking the pitch with the confirmed acts (there were earlier alleged offences but those were some 20 minutes before those proven or admitted in the Blandin case) of foul play that ensued.

Mrs Green

33. Mrs Green gave evidence as to the general atmosphere at the match and that this had caused her concern for both her children who were present and other children watching the game.

34. However she was unable to remember any precise detail of what actually happened with which to assist the Panel.

The Defence Case

The Coach

- 35. The Coach gave evidence in his own defence. He stated he had been with FRFC for about 12 months and had not served a whole season. He had been unaware of M. Blandin's history and reputation at the time of the match. Mr Blandin had been with another club at the start of the season.
- 36. He understood the dynamics of a local derby and stated that he had selected a 15 comprising mainly of university students and ex-colts who he was trying to develop into the next generation of 1st XV players. M. Blandin had been brought on to add experience and not to unleash any kind of monster.
- 37. He confirmed that he had had a conversation with Mr Coombes and had been trying to explain to him that he (the Coach) did not in any way condone violence. He stated that Mr Knight had then got involved by coming towards him. He confirmed that he had made the remark concerning Mr Knight's calorie count as set out above.
- 38. He again apologised for his language which he agreed was unacceptable. He indicated that this had been primarily directed at Mr Jeat who had improperly run onto the pitch. He rejected the suggestion that Mr Jeat was trying to protect his own player but rather was trying to attack M. Blandin.
- 39. Mr Knight had then come towards him and, as a person, he was not someone who backed down. The incident was over in about five to six seconds although it did result in a melee. He said that there were no punches thrown and described the incident as "handbags". The matter had then settled down and there had been no further trouble throughout the game.
- 40. In response to questions from the Panel, the Coach confirmed that he accepted using a tremendous amount of foul language including the "f" and

- "c" word. He also confirmed that, given the presence of women and young children, that language was contrary to the interests of the game. Most of the language had been directed towards Mr Jeat.
- 41. He similarly confirmed that he had pushed Mr Knight but denied that he had struck him. He though did accept having put his hands on Mr Knight. He said this was because Mr Knight had come towards him in an aggressive way and that he had accordingly had to protect himself.
- 42. The Coach accepted that he had moved a distance towards Mr Knight before Mr Knight confronted him. He stated that he had not taken his glasses off but that these had been knocked off in the Melee.
- 43. He stressed the fact that the photographs clearly showed Mr Knight's hands to be outside of his pockets which he considered brought into question the credibility of all A&F witnesses who had recorded that his hands were in his pockets at all times.
- 44. He reiterated that Mr Knight had attacked him and suggested that, as a former boxer, if he had attacked Mr Knight as had been claimed, there would have been obvious injuries sustained. He at all times had been trying to protect his players and had then been confronted by Mr Knight.
- 45. When asked by the Panel why, despite repeated directions to do so, he had failed to submit any evidence in support of his case ahead of the hearing, he stated that he had not been made aware by his club that he was required to do so. He had also been tied up with more important issues as his mother has recently been very unwell and unfortunately hospitalised as a result.
- 46. He again stressed that he had no idea of M. Blandin's record and simply regarded him as a very aggressive but good player. He also referred to the fact that temperatures had been raised by Mr Lovell's presence as an A&F player. He denied instructing M. Blandin to go out and sort out Mr Lovell, but he had wanted M. Blandin to mix things up and slow the play down. To the extent that FRFC witnesses had overheard his conversation with M. Blandin that conversation had been misinterpreted. He then, however went on, seemingly to suggest that there had been no conversation with M. Blandin,

although when reminded by the Panel that, at the outset of the hearing, he had accepted that he had asked M. Blandin to make a nuisance of himself, he confirmed that this was correct.

- 47. He equated the incident with Mr Pickering as being akin to two stags going head to head, and felt that any reddening of Mr Knight's face would have occurred as a result of this. He again confirmed that he had pushed Mr Knight but could not recall where or how many times. He also could not recall who had grabbed who which resulted in their heads making contact. He also asserted that Mr Knight had definitely also pushed him in the region of his upper chest.
- 48. The Panel again questioned the Coach as to why he had not provided any of this evidence in advance of the hearing and the Coach reiterated that he had not been asked to do so by his club. He was similarly asked why, given the seriousness of the matter, he had not asked any player to attend and give evidence on his behalf. In response he thought it was more important that they attended the training session held that night.
- 49. He was reminded of his evidence was that his glasses had come off during the melee. However, the photograph, which the Coach had adduced, showed him, without glasses, before the melee started. The Coach was unable to account for this fact.
- 50. It was also put to the Coach that another person could be seen holding him (the Coach) back on the picture marked D. The Coach confirmed that this was an FRFC player, Simon Crump. He did not give any explanation why Mr Crump felt it necessary to hold him back other than accepting that there had been a ruckus.
- 51. When asked again by the Panel why, given Mr Crump's apparently important involvement, he had not given evidence or even a written statement, the Coach replied that he had been advised by his barrister that he only needed to call his wife at the hearing.

52. The Coach was referred to a statement submitted by Anthony John Wakeford which had been tendered by FRFC. Mr Wakeford is a FRFC supporter. His statement (at page 2) indicated that he had:

"observed the Farnborough Coach vigorously push the Aldershot & Fleet Coach with open hands firstly in the chest and then in the face. The Aldershot & Fleet Coach staggered backwards slightly...I

Later in his statement he referred to another incident in which the Coach was seen to become aggressive at which point:

"I intervened once more and dragged him away. Fortunately I managed to [insert] and there was no further incident after this".

53. As noted this was evidence prepared on behalf of RFRC and the Coach did not seek to challenge it.

Mrs Pickering

- 54. As noted, Mrs Pickering was the only witness called to give evidence on behalf of the Coach. It was clear that she felt uncomfortable giving evidence and, perhaps understandably, looked repeatedly to her husband for reassurance.
- 55. Her evidence was to the effect that the atmosphere had in large measure been caused by the A&F support and in relation to the incident between her husband and Mr Knight, that Mr Knight had been the aggressor.
- 56. In cross examination, Mrs Pickering was referred to an unsigned and undated statement she had previously provided and to the fact that this appeared, in part at least, to be inconsistent with her evidence before the Panel. She appeared uncertain as to her recollection and that the incident happened very quickly. She accepted that she had encroached beyond the rope and into the technical zone during the incident
- 57. The Panel felt great sympathy for the position Mrs Pickering found herself in but ultimately did not feel evidence was of assistance.

- 58. In the closing submissions the Coach submitted that the A&F evidence was clearly flawed, that the witnesses had colluded with each other and, as could be shown by the repeated reference to Mr Knight having his hands in his pockets shown to contain lies.
- 59. Conversely he submitted that the photographs showed the truth of the situation and this was one of Mr Pickering being the aggressor.

FINDINGS AS TO GUILT

- 60. The Panel carefully considered all the evidence and submissions from the Coach and Mr McEvilly. The Panel reminded itself of the test to be satisfied by the citing party, namely that each charge had to been proved separately on the balance of probabilities.
- 61. The Panel noted that there were some discrepancies in the evidence of the A&F witnesses. The match concerned had however been played over 2 months previously and this was therefore perhaps to be expected.
- 62. Taking the evidence in its entirety the Panel found the witnesses called in support of the citing to be credible and broadly consistent. It was notable that that the only evidence called by the Coach was given by his wife and, as noted, the Panel had some difficulty with that evidence.
- 63. Turning to the individual charges, on the evidence heard, the Panel could not be satisfied to the standard required that the Coach had encouraged acts of violence as had been alleged. The possibility could not be excluded that he had been seeking lawful, as opposed to illegitimate, effort from his players with which to nullify the A&F game.
- 64. The Panel found the Player guilty of charge 2 (foul and abusive language) on his own admission.
- 65. The Panel was satisfied that the Coach was guilty of striking Mr Knight in that he had pushed him as described by the witnesses. Accordingly the Coach was found guilty of charge 3.

- 66. In this respect the Panel found the evidence relating to the Coach's sun glasses to be of significance. He claimed that these had been knocked off in the melee. However, the photographs adduced by the coach, which it was accepted were taken before the melee commenced, the Coach was seen to be without his glasses. Mr Coombes gave evidence that the Coach had taken off his glasses before confronting Mr Knight and the photographs were therefore corroborative of that evidence. They similarly cast doubt on the credibility of the Coach's evidence and were consistent with the Coach having been the aggressor as all witnesses, with the exception of Mrs Pickering, had maintained.
- 67. The hearing reconvened and the Coach was advised of the Panel's findings. Mr Stone of Hampshire RFU was then able to inform the Panel that the Coach had two previous findings against him both arising out of a hearing held on 25 October 2008.
- 68. In his capacity as an FRFC player, the Coach had received a 4 week suspension following his dismissal resulting from the issue of two yellow cards in a single game. Both temporary suspensions related to Mr Pickering striking opponents with his head. He had then received a further 6 week ban, to run consecutive with first suspension, having been found guilty of match official abuse in relation to the same game.
- 69. The Coach confirmed this record as accurate. The combined suspension, which prevented the Coach from playing, as opposed to coaching, rugby was to expire on 5 January 2009. This was significant in that the present matters under consideration occurred whilst the earlier suspension was still in effect.

MITIGATION

70. Mr Allcock advised the Panel that the Coach is 38 and has played a high standard of both rugby union for a number of clubs including Esher and rugby league for Swinton Lions. He is a teacher by profession and specialises in teaching children with learning difficulties. He has previously coached the Household Cavalry team and has been with FRFC for some 12 months.

- 71. He is well regarded by the club who greatly appreciate his efforts in transforming a losing side into a winning one. He has mentored a number of promising players from South Africa and has brought many positive aspects to the side including fitness, mental strength and an improved diet. He gives no quarter and expects his players to follow. He is though very respected and is involved in coaching coaches.
- 72. He is also very committed to, and has done considerable work for, the British Heart Foundation.
- 73. In submissions on his own behalf, the Coach confirmed that he was a very passionate individual as distinct from an aggressive one. He again apologised for his language and stated that he had high regard for A&F and in fact had suggested that A&F should merge with FRFC. He commendably accepted that he had to be responsible for his actions and indicated that he would learn from this experience.

FINDINGS AS TO SANCTION

- 74. There is no prescribed tariff for the offences with which the Coach was charged, and the sanction for a breach of Rule 5.12 accordingly lies within the discretion of a disciplinary panel.
- 75. In exercising that discretion the Panel nevertheless considered the prescribed tariffs for offences that, broadly, could be viewed as being comparable. In particular the sanctions as set out at Appendix 2 DR for verbal abuse of players [Law 10 (4) (k)] in respect of charge 1, and striking an opponent [Law 10 (4) (a)] and physical abuse of a match official [Law 10 (4) (k)] for charge 3.
- 76. With regard to the foul language (charge 1) the Panel had regard to the content of the language and in particular that there were a number of children in the crowd apparently within hearing distance of the Coach. The match was also played in a public park and, on any view, the events of 3 January 2009 were a poor advertisement for the game of rugby football.
- 77. Had the Panel been required to arrive at entry point for this offence, it would have assessed it as being at the mid range of the scale of seriousness. In forming that view the Panel noted that the evidence suggested that the

language was directed only at players, and that the Coach had been equally colourful with his own team. Had the language been directed at officials or supporters, it is likely that the Panel would have placed the offending at the top end of the scale of seriousness.

- 78. Turning to charge 3 (striking) the evidence was such that, had the offending occurred on the pitch, it might have reasonably been described as "hand bagging". It was however not on the pitch. Conduct such as this has no place whatsoever in rugby, and disciplinary panels must therefore deal with it in a way that ensures that such incidents are not repeated.
- 79. Whilst no injury was sustained, the Coach's pushing of Mr Knight included open handed conduct with the face. The conduct occurred at a public venue and in front of children, wives and sponsors. Whilst the Panel felt that the offending could properly have been assessed as a low end offence, the Panel considered that any notional entry point would need to reflect the seriousness of those factors.
- 80. The Panel had regard to the aggravating factors and mitigating factors prescribed in the DR. The Coach's record was clearly a matter of concern, and the Panel had no hesitation in finding his record was such that he should properly be regarded as an offender of the laws of the game². Although the suspension being served at the time of this offending did not prevent the Coach from coaching, it was regrettable that these present offences occurred whilst an earlier suspension was still current.
- 81. The Panel also grappled with the Coach's status as both a player and a coach. Whilst the offending was not related to play, it seemed to the Panel that, given his dual status, to suspend him from coaching in circumstances where he would be able to resume playing, and thus continue to exert influence over the team, would not meet the justice of the case.
- 82. In these specific circumstances, the Panel considered that the suspension imposed should apply to both playing and coaching. That being the case, the Panel also took the view that the period of suspension should be less than would have been the case had the suspension only related to coaching

activities, again to achieve an outcome that the Panel considered was fair and proportionate. In so doing, the Panel had regard to 8.2.2 DR which provides as follows:

"For the avoidance of doubt "appropriate punishment" referred to in Rule 5.12 shall include, but not be limited to for a person, a reprimand, a financial penalty or suspension from playing, administration **or both** (emphasis added)"

SANCTION

- 83. Taking into account all of the above, and in the exercise of its discretion, the Panel determined that the Coach should be suspended from all rugby activity, whether as a player, coach or otherwise for a total of **12 weeks**. The suspension will run from 13 March 2009 until 5 June 2009. He may accordingly resume his involvement with rugby on 6 June 2009.
- 84. The terms of the suspension specifically include that the Coach is banned from the playing enclosure, touchline, technical areas or any dressing rooms on any match day involving any Farnborough team, or any other team, home or away, during this period.
- 85. The Coach's offending (and his previous offending) is both worrying and unfortunate. Whilst the Panel has no power to order such, it strongly recommends that the Coach undertakes an RFU Level 1 Coaching Course before resuming his coaching career. In his closing submissions the Coach indicated that he pursues a win at all costs approach that "is not found in any manual". It is hoped that he will reflect carefully on his approach to the game in the future.

COSTS

86. Pursuant to Regulation 8.3.1 the Player and/or his club shall pay the costs of the hearing of £100 in accordance Appendix 6 of the Disciplinary Regulations, such costs to be paid within 21 days of receipt of this judgment³.

² 8.2.7 b) DR

³ 8.3.2 DR

RIGHT OF APPEAL

87. The Player was advised of his right of appeal. Such appeal must be lodged with the RFU Discipline Department by not later than 10.00 hours on the 14th day following receipt of this judgment.⁴

Jeremy Summers

Chairman

19 March 2009

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⁴ Regulation 11.2.3