

**AVIVA PREMIERSHIP**

**RFU**

**v**

**EXETER CHIEFS**

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**In the matter of Ratu Nemani Driu Nasiganiyavi**

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**At:** Holiday Inn, Epsom

**On:** Wednesday 27 April 2011

**Panel:** Jeff Blackett (Chairman), Mark McCafferty, Peter Budge

**Secretary:** Rebecca Morgan

**Attending:**

**RFU:** Polly Handford (Legal Officer)

**Exeter Chiefs:** Tony Rowe (Chief Executive and Chairman)  
Rob Baxter (Director of Rugby)

1. A combined RFU/PRL panel was convened to consider whether Exeter Chiefs had breached Aviva Premiership Regulation 3.3(c) by including three foreign players in their match day squad on two separate occasions, and if so to determine an appropriate sanction. Exeter Chiefs admitted the breaches in that Ratu Nemani Driu Nasan (“Ratu”), an Australian citizen, was included in the match day squads on 26 March 2011 (v London Irish) and 3 April 2011 (v Leeds) when two other foreign players were also listed.

**The Facts**

2. During December 2010 Rob Baxter made inquiries through a registered agent about the possibility of signing Ratu from Bourgoin. The agent informed him that Ratu was Fijian, he played for Fiji in June 2010, and that he did not, therefore, fall within the definition of “foreign player” for registration purposes. From that point onwards Rob Baxter assumed that Ratu was Fijian. Subsequently Ratu was contracted to the club, and Rob Baxter was informed that he was available to play from 2 February.
3. Ratu was born in Fiji on 31 January 1988. His mother is Fijian but he did not know his father. In May 2008 he became an Australian citizen, renouncing his Fijian citizenship completely, so that he does not have dual nationality.

4. When he was registered with the RFU in early 2011, the solicitor acting on behalf of the club registered him as a foreign player using his Australian passport and visa. The administrator at the club dealing with the matter understood that it would be easier and quicker to effect registration in this way and his status could be changed subsequently on production of a Fijian passport.
5. During the period around the registration the administrator was about to depart on maternity leave and she was replaced by a new administrator who did not pursue Ratu to provide a Fijian passport. The new administration was aware that Ratu was foreign and the computer printout of the RFU Senior Player Register recorded his name in bold with the annotation “OE” next to his name, that suffix identifying him as foreign. The administrator’s understanding of the Aviva Premiership Regulation 3.3(c) was that only two foreign players could be in on the pitch at any one time, but that any number could be included in the match day squad.
6. The administrator routinely passed a copy of the Senior Player Register to Rob Baxter, who placed it in his match day file. However, he never studied it because he believed he knew the status of all of his players – and in the case of Ratu he believed that he was not “foreign” within the definition because he was Fijian. He was also aware that the maximum number of “foreign” players in a match day squad was two.
7. Ratu started to play for the club in early 2011 and appeared in an LV= Cup match in early February. His first match for the club in the Aviva Premiership was on 6 March at home against Northampton. As it happened only one other foreign player was included in the match day squad, so there was no breach of Regulation 3.3(c).
8. On 26 March 2011 Ratu was included in the match day squad for the away match against London Irish. He was listed on the Official Match Results card as (22) Nemani Nadolo (the name by which he is known and shown in match day programmes). Two other foreign players (Hoani Tui – 18, Ignaciao Mieres – 23) were also listed. Although the card was subsequently scrutinised by RFU officials, the fact that three foreign players were listed was not identified at that stage. The club lost the match 39 – 17.
9. On 3 April 2011 Ratu was included in the match day squad for the away match against Leeds. He was listed on the Official Match Results card as (14) Nemani Nadolo. Two other foreign players (Hoani Tui – 18, Ignacio Mieres – 22) were also listed. The club lost the match 27 – 22.
10. Nicky Cook, the Rugby Operations Executive of the RFU, said that this second breach was identified during routine scrutiny of the Match Results card. She said in a written statement: “subsequently it came to light that Exeter Chiefs selected the same 3 players the previous week in their match against London Irish on Saturday 26 March 2011. However, this had not been picked up by either the Tournaments & Competitions Department or Exeter Chiefs. I can only assume that this was due to the confusion with

names.....On Thursday 7 April, during a telephone conversation with [the administrator] of Exeter Chiefs, I said if Ratu had a Fijian passport she should forward a copy to me. She said she would do so as soon as possible.... I have since been told that Ratu does not have a Fijian passport.”

### **Submissions by the Club**

11. Tony Rowe provided a written submission to the Panel in advance of the hearing and then made oral submissions. He apologised for the breaches and acknowledged their seriousness. The Club was well aware of the Regulations in respect of foreign players and the breach had been inadvertently caused by a combination of a change of administrators, the fact that the agent assured Rob Baxter that Ratu was Fijian and poor internal procedures. Rob Baxter confirmed that in his mind he was selecting a Fijian when he selected Ratu and it did not cross his mind to check his team selection with the Senior Player Registration printout, although he acknowledged that Ratu was identified therein as foreign.
12. Immediately after the RFU informed the Club that Ratu was a foreign player he was withdrawn from the squad selected to play against Bath. Had they been made aware of the first breach earlier they would have been able to take action sooner and may only have been guilty of a single breach. The Club undertook an internal review, as the result of which they have implemented a number of administrative changes to prevent further breaches.
13. The Club asked for the following matters to be taken into account in mitigation:
  - (a) the Club had a good record in such matters and had not previously breached competition Regulations;
  - (b) the Club did not select the player to seek any competitive advantage;
  - (c) the Club acted immediately following the notification by the RFU by:
    - withdrawing the player from the match squad against Bath 48 hours prior to kick off;
    - undertook an immediate internal investigation
    - reviewed internal procedures to prevent future occurrence.
  - (d) the Club accepted the breaches and believes they were caused by unintentional administrative errors;
  - (e) the Player was born in Fiji, and has three international caps for Fiji (most recently in June 2010) and his recruitment was undertaken on the basis that he was Fijian;
  - (f) the Club is currently investing a significant amount of money in regaining his Fijian citizenship;
  - (g) the Club has since joining the Premiership worked hard in the recruitment and selection of players to ensure they meet the RFU/PRL targets regarding the EQP scheme. At present the Club has an EQP average of 72.8% in the Aviva Premiership, second only to Harlequins;

- (h) the player is effectively registered in accordance with the RFU Regulations and is lawfully employed in accordance with UK Border Agency legislation;
- (i) the Club should not be held solely responsible for the second breach because it would not have occurred had the RFU identified the first breach earlier;
- (j) in its first season in the Aviva Premiership the Club has surpassed its on field expectations. The staff involved in these breaches are devastated to think that their actions may result in the hard work and dedication of the players being damaged by these unintentional administrative errors.

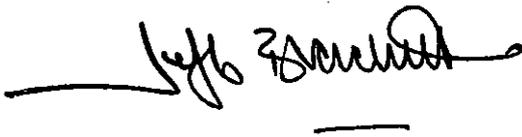
### Decision

14. The panel accepts the Club's submission that both these breaches were the result of poor internal administrative practices and that there was no attempt to gain competitive advantage by cheating. Although the panel is disappointed that the RFU did not identify the first breach until after the second, that does not reduce the Club's culpability. They have the ultimate responsibility to ensure that they comply with the Regulations – the check by the RFU provides a safety net and should not be relied upon. Nevertheless, the panel accepts that had the first breach been identified earlier by the RFU then the second breach would not have occurred.
15. There has been too high an incidence of administrative error by professional clubs over the past few seasons. It is important that the professionalism surrounding the playing staff is supported by equally professional support. Previous sanctions against clubs who have admitted regulation breaches involving player eligibility have been the deduction of 1 championship point. Clearly those sanctions have not provided sufficient deterrent and we have decided to increase the sanction to reflect the seriousness of breaches of eligibility regulations which have the potential to undermine the integrity of the competition.
16. We considered the sanction guidelines in Appendix 2 to Chapter 13 of the RFU Regulations which provides that for a breach of regulations by selecting or playing an ineligible player (including replacement and substitutes) there should be a deduction of not less than 5 championship points (RFU Handbook page 182). However, we decided that those guidelines should not apply to the Aviva Premiership (or the Championship). It is much easier to cheat in the lower leagues where scrutiny is less onerous and the deduction of points at the elite level can have a disproportionate effect. In our view, and taking account of the need for deterrence, we determine that where a breach has occurred as a result of an administrative error, where there is no intention to gain competitive advantage or cheat, the appropriate sanction is a deduction of 2 championship points for each breach and a financial penalty.
- 17. We therefore direct that two championship points are to be deducted for each of these two breaches. Those deductions are to be concurrent to reflect the fact that had the RFU identified the first breach the second**

would not have occurred. Thus the Club is to be deducted a total of 2 championship points. In addition we fine the Club £5000, and order that they pay £500 for the costs of the hearing.

Comment

18. We are concerned that a registered agent may have either intentionally or unintentionally misled the club in relation to the nationality of a player. The RFU should consider whether to take any action under Regulation 8.2.2.

A handwritten signature in black ink, appearing to read 'Jeff Blackett', with a horizontal line underneath it.

HHJ Jeff Blackett  
Chairman

9 May 2011