athletics ontario

January 3, 2020

On October 09, 2019, an Athletics Ontario (AO) Complaint Hearing Panel (Panel) determined the following (summary) regarding Mr. Randy Brookes, owner and operator of The Gazelles, based in Durham Region:

- For a time period of no less than two (2) years beginning immediately upon the publication of this report, Mr. Brookes shall be banned from participation in any role at any competition, practice, camp, event or activity that is organized, convened or sanctioned by AO or by a member of AO (including any affiliated club or association) and have his AO Coach Membership suspended.
- Mr. Brookes is also instructed to cease any further actions of retaliation against the Complainant which would violate the Harassment Policy.
- The two-year suspension may be extended if Mr. Brookes violates the terms of the sanction, which includes the following:
    - completion of the Respect Group's Respect in Sport for Activity Leader's course;
    - completion or renewal of the NCCP's Make Ethical Decisions course;
    - demonstration of his understanding of the wrong doing and consequences of this misconduct;
    - demonstration of his full understanding of the Athletics Ontario Code of Conduct and Harassment Policy; and
    - demonstration of a change in behavior which complies with the Athletics Ontario Code of Conduct and Code of Conduct – Coaches, and which does not risk bringing disrepute or harm to himself, athletes or Athletics Ontario.

BACKGROUND

This matter concerning Mr. Brookes involved three complaints, one of which was against Mr. Brookes primarily for having a relationship with an athlete he was coaching, and another related complaint against Mr. Brookes and another woman primarily for reprisals/retaliation and harassment. These two complaints were referred by the AO Chair to the aforementioned Panel for resolution and involved the Complainant, Mr. Brookes and another woman. The third complaint was referred to a separate Panel for resolution.

AO APPEAL PROCESS

According to the **AO *Dispute Resolution Policy – Appendix C – Appeal Process***, Mr. Brookes has the right to request an appeal of the decision of the Panel.

However, a decision cannot be appealed simply because the respondent (Mr. Brookes) does not agree with the Panel's decision. An appeal may be heard only if the Chair of AO determines

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that there are sufficient grounds based on one or more of the following procedural errors committed by AO:

a) made a decision without the appropriate authority or jurisdiction as set out in AO governing documents;

b) failed to follow procedures as laid out in AO by-law or approved policies;

c) made a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views;

d) exercised discretion for an improper purpose; or

e) made a decision which was grossly unreasonable.

Respondents have 21 days from the date of the decision to submit a written notice of appeal to the AO Board Chair. Mr. Brookes (now the Appellant), through his legal counsel, submitted his request for an appeal on October 29, 2019, within the 21-day appeal period.

THE APPEAL

The Appellant is basing his appeal request on the claim that AO:

1. failed to follow procedures as laid out in AO by-law or approved policies;

2. made a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views; and

3. made a decision which was grossly unreasonable

As Chair of AO, it is my role to decide whether or not the Appellant presented sufficient grounds for an appeal based on these claims.

I will address each of the claims separately.

1. DID THE HEARING PANEL FAIL TO FOLLOW PROCEDURES AS LAID OUT IN AO BY-LAW OR APPROVED POLICIES?

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Principles of Natural Justice

The letter of appeal claims that AO contravened the principles of natural justice, which are outlined in its Harassment Policy:

> *All investigations stemming from this complaint shall follow the principles of natural justice, which states that:*
> - *everyone has the right to a fair hearing in the course of determining whether an infraction has been committed;*
> - *the issues should be clearly and concisely stated so that the accused is aware of the essentials of the complaint;*
> - *the accused has a right to have a representative present his or her case;*
> - *relevant information must be available to all parties;*
> - *the accused has the right to call and cross-examine witnesses;*
> - *the accused has the right to a written decision following the judgment;*
> - *the accused has the right to appeal a decision (if there are grounds); and*
> - *the Harassment Officer(s) have a duty to listen fairly to both sides and to reach a decision unaffected by bias.*

Specifically, the Appellant argues that AO was in contravention of the policy because it:

1. refused to provide all "relevant information" (other than the investigator's reports);
2. refused to allow the accused to call witnesses;
3. refused to allow the accused to cross examine hostile witnesses;
4. refused to give the accused more than 1.5 hours to answer questions; and
5. granted only enough time for the accused to "highlight its main points."

Each of the Appellant's claims are addressed below.

Relevant Information

The Appellant suggests that "relevant information" means "all of the evidence and information relied on by all parties." However, the Appellant's appeal letter specifically references correspondence from AO to the Appellant dated September 19, 2019, which clarified that relevant information included "copies of forms, responses and reports."

AO's Harassment Officer provided the Appellant with a copy of the Complaint filed against him and an opportunity to submit a response to the Complaint along with evidence to support his response. The Appellant was then provided a copy of the Complainant's reply to his response and an opportunity to provide another response and supporting evidence, which he did.

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AO's Investigator then provided the Appellant with a copy of the Harassment Officer's Report and an opportunity to provide his response and supporting evidence, which he did. The Appellant was then provided a copy of the Complainant's response to the Harassment Officer's Report and an opportunity to provide another response and supporting evidence, which he did.

The Panel then provided the Appellant with a copy of the Investigator's Report and an opportunity to provide a response and supporting evidence. The Appellant was then provided a copy of the Complainant's response to the Investigator's Report and an opportunity to provide another response and supporting evidence, which he did. The Appellant was then provided an opportunity to provide the Panel with additional documentation and evidence prior to the Hearing, which he did. The Appellant then appeared before the Panel for 1.5 hours to present his position and documentation and to answer questions. The Appellant also provided the Panel with additional information after the Hearing.

The Appellant was provided with copies of the complaints, responses, replies and reports that combined, outlined all allegations, findings and recommendations that the Panel heavily relied upon. Therefore, it is concluded that the Appellant was provided all relevant information.

Right to Call and Cross-Examine Witnesses

The Appellant further claims that AO breached his right to call and cross-examine witnesses. AO's Harassment Policy specifies that the Principles of Natural Justice are to be followed, which includes the ability for the Complainant and Appellant to call witnesses and to cross examine witnesses.

As outlined above, during the investigation the Appellant had a lengthy period of time to present witnesses of his choosing, which he did.

The Appellant also had numerous opportunities to counter the arguments and allegations of the Complainant. During the Hearing only the Complainant and two Respondents, including Mr. Brookes, testified. Therefore, there were no witnesses present for the Appellant to cross examine. Following the principles of Natural Justice means providing a Respondent with a fair, reasonable and transparent process, according to the policies of AO, during which arguments, evidence and rebuttals can be presented. AO is not a court of law and our policies, procedures and practices are not intended to mirror those of the justice system.

It is concluded that the Appellant had abundant opportunities to present arguments, evidence, witness statements and character witnesses. The Appellant also had abundant opportunities to counter the arguments and evidence presented by the Complainant. Therefore, the Appellant was not denied the Principles of Natural Justice.

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The Time Allotted

The Appellant claims that "it is grossly unreasonable and contrary to the AO's policies (in word and in spirit) to make a final decision based on a short 1.5-hour interview with the accused."

The AO Dispute Resolution Policy states:

> ***…the Panel shall govern the hearing by such procedures as it deems appropriate and fair.***

The Panel convened eight months after the first of three related complaints were received. During this eight month period, the Harassment Officer shared documents between the parties and solicited responses, submissions and witness statements. Following the Harassment Officer's work, both the Investigator and the Panel did the same.

The Panel provided all three parties with the same 1.5 hour time allotment to present their arguments and answer questions. The Appellant did not request more than the allotted time, contrary to the Appellant's claim in his letter of appeal.

Regardless, according to the AO Dispute Resolution Policy, the Hearing Panel has full authority to set parameters on the Hearing, including time allotments. As the Appellant admitted to the prohibited behaviour, it was reasonable for the Hearing Panel to set a time limit of 1.5 hours for the presentation of arguments and questions. Nevertheless, the Hearing Panel allowed the Appellant to submit additional information following the Hearing. In total, the Appellant had approximately eight months to bring forward information and witnesses.

Therefore, I find that the Hearing Panel provided the Appellant and the other parties with an adequate and reasonable amount of time and that the Appellant's overall argument that AO failed to follow its policies and principles of Natural Justice has not been established in his request for appeal.

Interpretation of the Rules Regarding a Sexual Relationship between a Coach and Athlete

The Appellant argues that "an imbalance of power is only one element in a relationship" between a coach and an athlete and that one should also consider other power components such as age, experience, wealth, standing in the community, race, gender, emotional state, health, and any vulnerabilities.

This is an extremely dangerous line of argument. Provincial and federal laws and various rules within the Athletics community have been put in place specifically to protect individuals who may be vulnerable because of any of these factors. A power imbalance is established when one

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person is in a position of power, authority or trust over another, such as the coach/athlete relationship and the employer/employee relationship.

The Athletics Canada Rules and Bylaws state that the "coach-athlete relationship is a privileged one and plays a critical role in the personal, sport, and athletic development of the athlete. Coaches must understand and respect the inherent power imbalance that exists in this relationship and must be extremely careful not to abuse it, consciously or unconsciously."

The issue with engaging in a sexual relationship with a person over whom you have power is that consent cannot be considered truly voluntary. Both the ***Ontario Human Rights Code*** and the ***Occupational Health and Safety Act*** address sexual advances by individuals in positions of power.

The Appellant argues that the sexual relationship with the Complainant was consensual and therefore, not inappropriate. However, none of the Athletics policies state that sexual relations between a coach and athlete are appropriate as long as consent is obtained. Consent does not make the activity acceptable. Furthermore, AO (or any other organization) does not need to have a policy prohibiting sexual relationships that are non-consensual since non-consensual sexual relationships are criminal offences.

The Appellant further suggests that the various policies regarding sexual relationships between coaches and their athletes are ambiguous and that the AO Investigator decided on his own that the issue is a "strict liability" offence.

These are seriously flawed and incorrect arguments. Sexual solicitation and sexual relations between a coach and athlete is not acceptable behaviour in any sport including Athletics. AO, and the other sport governing bodies, decided that this type of conduct is prohibited behaviour when they created their policies, not during the course of this complaint as the Appellant suggests. The AO Investigator confirmed this interpretation during his investigation.

Athletics Ontario, Athletics Canada, the Coaches Association of Canada and the International Association of Athletics Federations each have policies/codes/rules which set out that coach-athlete relationships are prohibited. These relevant documents and their provisions are set out below for reference.

ATHLETICS ONTARIO

The ***Athletics Ontario Code of Conduct (General)*** ss. 2(a) outlines numerous foundational expectations of all Members of AO, including complying with all bylaws, policies, rules and regulations of the IAAF, Athletics Canada and Athletics Ontario, not placing themselves in situations that could give rise to conflicts between their personal interests and those of AO, and being aware of the rules and policies which may impact you as a member. This is particularly

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important because the Appellant claims that he did not know it was wrong for a coach to have a sexual relationship with one of his athletes. Such a claim raises more serious concerns about the Appellant's judgement and understanding of the role and responsibilities of a coach. The ***Athletics Ontario Code of Conduct – Coaches***, ss. 2 (b) 13 clearly states that all coaches of AO must also "**At no time become intimately and/or sexually involved with the athletes they coach as per** the laws of Canada, the Province of Ontario and **the Athletics Ontario Harassment Policy.** This includes requests for sexual favours or threats of reprisal for rejection of such requests."

This Policy clearly states that it applies to "all Coach Members of AO and their conduct at any AO activities, programs or events and includes conduct of members in activities in any way related to AO and/or its members." And furthermore, ss 2 (e) related to compliance states that by registering with AO, both the club and the Coach agree to abide by all of AO's rules, policies and procedures. This is confirmed during the annual registration process.

The ***Athletics Ontario Harassment Policy***, ss. 5(b), states that if "a person does not explicitly object to harassing behaviour, or appears to be going along with it, this does not mean that the behaviour is okay. The behaviour could still be considered harassment under the *Ontario Human Rights Code.*"

The Policy specifically identifies sexual solicitations, exploitation and advances by a coach as Prohibited Behaviours, including the following:

> Ss. 5 (i) Sexual Solicitation – solicitations, exploitation, or advances by any person who is in a position to grant or deny a benefit to the recipient of the solicitation or advance. This includes team managers and coaches, as well as AO co-workers where one person is in a position to grant or deny a benefit to the other. Reprisals for rejecting such advances or solicitations are also not allowed.

ATHLETICS CANADA (AC)

The **Athletics Canada *Rules and Bylaws*** ss. 129.03 (f) definition of Sexual Harassment includes making sexual solicitations and advances where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advance to the Individual or Athlete and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Subsection 129.08 (N) requires coaches to "disclose any sexual or intimate relationship with an athlete of or over the age of 18 to Athletics Canada and immediately discontinue any coaching involvement with that athlete, unless that intimate relationship began before the coaching relationship."

The **AC *Policy on Member Conduct*** ss. 2(b) states that Coaches will: *Avoid any behaviour that abuses the power imbalance inherent in the coaching position to (a) establish or maintain a*

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sexual relationship with an athlete that he or she is coaching, or (b) encourage inappropriate physical or emotional intimacy with an athlete, regardless of the athlete's age.

COACHES ASSOCIATION OF CANADA (CAC)

Athletics Ontario policies are aligned with those of the Coaches Association of Canada (CAC) and the National Coach Certification Program (NCCP). The CAC ***Code of Conduct***, which includes many relevant sections for this case, includes the following which further defines the power imbalance between a coach and athlete and inappropriate behaviours by a coach:

> *28. Not engage in a sexual relationship with an athlete under 18 years old or an intimate or sexual relationship with an athlete over the age of 18 if the individual is in a position of power, trust, or authority over the athlete.*
>
> *29. Recognize the power inherent in the position of coach and respect and promote the rights of all participants in sport. This is accomplished by establishing and following procedures for confidentiality (right to privacy), informed participation, and fair and reasonable treatment. Coaches have a special responsibility to respect and promote the rights of participants who are in a vulnerable or dependent position and less able to protect their own rights.*

INTERNATIONAL ASSOCIATION OF ATHLETICS FEDERATIONS (IAAF)

The ***IAAF Integrity Code of Conduct*** *ss.*6.3.j also stipulates that "to safeguard the dignity of individuals and not to engage, (directly or indirectly) in any form of harassment or abuse, whether physical, verbal, mental, sexual or otherwise…"

It has been established very clearly that a relationship between a coach and his athlete is a prohibited act. In this matter, the Appellant admitted to having a sexual relationship with the Complainant Athlete. As a result of the Appellant's admission of his sexual relationship with the Complainant Athlete, the Hearing Panel was not required to make this determination as the evidence was clearly presented to them.

Therefore, I find that the Appellant has failed to demonstrate that Athletics Ontario failed to follow procedures as laid out in AO by-laws or approved policies based on the lack of evidence provided by the Appellant to support his claim.

The Appellant has failed to demonstrate that the Investigation and Hearing did not meet and follow procedures as established in AO by-laws and/or approved policies.

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2. DID THE HEARING PANEL MAKE A DECISION WHICH WAS INFLUENCED BY BIAS, WHERE BIAS IS DEFINED AS A LACK OF NEUTRALITY TO SUCH AN EXTENT THAT THE DECISION-MAKER IS UNABLE TO CONSIDER OTHER VIEWS?

The Appellant argues that because the Investigator's Report and the Hearing Panel's Report included sentences that involved language like "we feel that" and "it is my understanding," the individuals involved were either not knowledgeable, unreasonable or biased in their conclusions and decisions.

Utilizing layperson's language, rather than the more formal language typically used in litigation processes, in itself is not evidence of errors or bias.

The Appellant also states that, "any findings of manipulative behaviours is contrary to the evidence before the panel and is grossly unreasonable and demonstrates bias." The Appellant further denies retaliation against the Complainant and coercing witnesses, but provides no new evidence to support these denials.

Nevertheless, the Appellant admits that, "his conduct 'blurred' the appropriate boundaries" and that he "hurt the accuser."

The three members of the Panel are respected members of the Athletics community and included one member who is a peer of the Appellant. AO vetted the members of the panel carefully to ensure there were no actual, potential or perceived conflicts of interest. In fact, one original member of the panel was replaced very shortly after the appointment because of an identified potential or perceived conflict of interest.

Therefore, I find that the Appellant has failed to demonstrate either bias or lack of neutrality by the Panel.

3. DID THE HEARING PANEL MAKE A DECISION WHICH WAS GROSSLY UNREASONABLE?

The Appellant's first response to the original Complaint argued that the Complainant pursued him and he tried to rebuff her flirtations and advances. However, the evidence does not support that position and, in fact, suggests behaviour that was described by the Hearing Panel as "grooming" and "gaslighting."

The Appellant now suggests that the decision was grossly unreasonable because his sexual relationship was consensual, with an older woman and during a period of only three months while the Complainant was an athlete.

I have already addressed the fact that consent has nothing to do with the prohibition of a sexual relationship between a coach and his athlete. The age of the Complainant is also

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irrelevant as a sexual relationship between a coach and an adult athlete is also prohibited. And finally, the duration of the sexual relationship is also irrelevant, although the facts demonstrate that the Appellant was having a sexual relationship with the Complainant for at least two years while coaching her, despite the Appellant claiming it was only for three months. The Appellant was also her employer for a much longer period while having sexual relations with her.

The Appellant states that he, "is genuinely remorseful for entering a relationship which blurs the appropriate boundaries and which caused the accuser pain" both "emotional and financial." This is a clear admission of inappropriate behaviour.

However, the Appellant asserts that, "this is a minor offence, if any at all" and, therefore, the "punishment should fit the crime." As I have dismissed the Appellant's assertions that consent and age should be factors in determining whether the decision was grossly unfair, the Appellant must demonstrate that his actions constituted a minor, rather than a major, offence in order to prove sufficient grounds for an appeal.

For disciplinary purposes, section 3 of the ***Athletics Canada – Policy Relating to Member Conduct*** defines both minor and major offences. Major infractions are defined as "instances of misconduct that result, or have the potential to result, in harm to other persons, to Athletics Canada or to the sport of athletics," and include (but not limited to) the following:

- *repeated minor infractions;*
- *deliberate disregard for the policies and rules of Athletics Canada;*
- *conduct that intentionally damages the image, credibility or reputation of Athletics Canada, including entering into a conflict of interest; and*
- *behaviour that constitutes harassment, sexual harassment or sexual misconduct.*

The AC Policy defines "behaviour that constitutes harassment, sexual harassment, or sexual misconduct" as a major infraction. While "sexual misconduct" may not be specifically defined, sexual solicitation is certainly considered an act of sexual misconduct in the most literal sense. And there is clear evidence of sexual solicitation and advances by the Appellant toward the Complainant when she first joined his club as an athlete.

The Appellant's assertion that this is "a minor infraction, if any at all" is clear evidence that the Appellant neither understands his wrongdoing and the consequences of his misconduct, nor demonstrates a change in behaviour (two requirements included in the Hearing Panel's decision).

The Appellant states that "it is not clear what harm or disrepute the panel is referring to…for which there is no evidence…" However, the facts of this case clearly demonstrate repeated minor infractions, deliberate disregard for policies and rules and conflicts of interest that directly damaged the image, credibility and reputation of Athletics Canada, Athletics Ontario,

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the Appellant and the Appellant's Club, not to mention the impact on his Club's athletes and parents.

The following are excerpts from the Investigator's Report [with redactions to protect privacy] that provide evidence of both repeated minor infractions and major infractions as defined above:

- *Additional information provided indicates that prior to the end of the relationship between [the Complainant] and Randy, Randy entered into another intimate relationship with the mother of a minor athlete in Randy's club.*
- *There is further evidence in the form of a statement provided during this investigation that Randy sent emails which included sexual content to the married mother of another of the club's minor athletes for the purposes of soliciting a relationship.*
- *[The mother of a minor athlete with whom Mr. Brookes is having sexual relations] is not directly a member of AO; however, in terms of AO Harassment Policy, s. 2(a), she is a member by definition as a parent of an athlete. She has filed a complaint against [the Complainant] on behalf of her minor [child] and as such is standing in the place of an AO member. It is with that athlete/parent relationship in mind that the athlete/coach AND the parent/coach relationships need to be considered. While AO policy does not specifically prohibit a sexual relationship between a coach and parent of a minor athlete under the care and control of that coach, AO Code of Conduct – Coaches does prohibit a coach from becoming intimately and/or sexually involved with an athlete they coach.*
- *Furthermore, that same policy requires a coach to "act in a manner that will bring credit to the athletics community and themselves." Randy is married with minor children; [the Complainant] is married with minor children; [the mother of a minor athlete with whom Mr. Brookes is having sexual relations] is single and has minor children, one of whom is coached by Randy. The fall-out from these relationships has led to criminal charges, as well as civil and human rights actions between the parties, the breakdown of at least one marriage [now at least two if not three] and…[redacted]. This is an indication of how serious the situation is.*
- *Material shared with me during the course of this investigation can only be described as of an extremely explicit sexual nature…[redacted].*
- *The evidence available (including the party's own admissions) indicates that Randy is guilty of sexual solicitation and advances.*
- *Although not specifically included as a complaint in this matter, this investigation has uncovered several situations that may be viewed as reprisals from Randy Brookes towards others who have registered complaints.*
- *…This discrepancy in evidence raises credibility issues and also indicates the possibility of a coordinated and concerted effort on the part of Randy and [the mother of a minor athlete with whom Mr. Brookes is having sexual relations] to harm [the Complainant] in response to her complaint.*
- *I have had two credible witnesses state that while they can confirm details of Randy's policy violations, they will not agree to have their name or details of the facts provided in*

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this report because of fear of retribution from Randy Brookes. Based on what I have read and the discussions I have had with witnesses, I believe those fears are reasonable.

- *Protecting athletes from the sexual advances of a coach is of utmost importance, and by extension, protecting minor athletes from a coach making sexual advances towards their parents must also be considered equally important.*
- *It appears that Randy Brookes is not able to make the separation between an appropriate intimate relationship and an intimate relationship that will harm one or more of his athletes, whether those athletes are adults or minors. Leaving him in a coaching role puts not only athletes but also Athletics Ontario at significant risk.*

The Appellant denies any form of retaliation or coercing witnesses. However, the Hearing Panel found to the contrary:

> *Additionally, there is evidence in the form of witness statements of retaliation committed by the Male Respondent against the Complainant following her initial complaint and this is reinforced by the Male Respondent's actions throughout this hearing, such as coercing at least one witness statement against the Complainant and continuing to blame the Complainant for an action for which there was no evidence against her according to the Police Review of the matter.*

The Appellant states that it is unclear what harm and disrepute was brought to his athletes, his club or Athletics Ontario.

Contrary to the Appellant's position, I find there to be considerable evidence, much of it in the public realm, of the harm that has evolved from the Appellant's decision to pursue and enter into a sexual relationship with a person who joined his club to obtain athletics coaching. The fact that after a period of time, the coach-athlete relationship also turned into an employer-employee relationship did not eradicate the power imbalance between the two parties, but instead amplified the power imbalance and further embroiled at least one other employee and the entire club membership. The breakdown in the relationship between the Appellant and the Complainant has resulted in considerable negative fallout, all of which was available to the Hearing Panel:

- A civil suit between the parties related to the collapse of the business relationship between the Appellant and the Complainant;
- A criminal complaint and charges against the Complainant involving the Appellant and the mother of one of the Appellant's minor athletes with whom the Appellant is having another sexual relationship;
- A recent civil suit filed by the Appellant against the Complainant;
- A recent civil suit filed against the Complainant by the aforementioned mother of one of the Appellant's minor athletes with whom the Appellant is having another sexual relationship; and

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- Multiple official complaints filed with AO requiring significant resources to process, investigate and adjudicate;

Deliberate disregard for the policies and rules of Athletics Canada also qualifies as a major infraction. While the Appellant has stated that he did not know a sexual relationship with an athlete was prohibited by policy, he also holds himself out in the athletics community and society at large as an expert professional coach with an extensive amount of knowledge and experience gained at the highest levels of the sport. In that context, the Appellant knew *or ought to have known* that his conduct was prohibited and in that manner cannot now succeed in classifying that conduct as "a minor infraction, if any at all."

Therefore, I find that the Appellant has failed to demonstrate that the Hearing Panel's decision was grossly unreasonable based on the lack of evidence provided by the Appellant to support his claim.

THE APPEAL DECISION

The Appellant has failed to demonstrate that Athletics Ontario has committed a procedural error, based on the Athletics Ontario ***Dispute Resolution Policy – Appendix C – Appeal Process*** and has, therefore, failed to demonstrate sufficient grounds for an Appeal. Accordingly, I deny the Appellant's request for an appeal and affirm the Hearing Panel's decision.

Athletics Ontario ***Dispute Resolution Policy – Appendix C – Appeal Process*** s. 3 states that the decision as to whether there are sufficient grounds for an appeal is at the sole discretion of the Board Chair and that decision cannot be appealed.

As an alternative to an Appeal, Mr. Brookes has also requested arbitration. Athletics Ontario's ***Dispute Resolution Policy – Appendix A – Dispute Resolution***, s.15 states that under limited circumstances, an appeal may be referred to binding arbitration if all parties agree. However, this option is only available if the Board Chair determines that there are sufficient grounds for an appeal. As I have determined that Mr. Brookes has failed to demonstrate sufficient grounds for an appeal, binding arbitration is not an option.

The Athletics Ontario ***Code of Conduct (General)*** is intended to create a safe and respectful environment for all participants and to prevent harm and disrepute to the organization and its members. Among other things, the Code requires all members, including the Appellant, to:

- ***Refrain from public criticism of other members of the athletics community;***
- ***Display an active support of Athletics Ontario; and***
- ***Act in a manner that will bring credit to the athletics community and themselves.***

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The evidence provided during this matter indicates that the Appellant's conduct and behaviours have breached these requirements. Since the release of the Hearing Panel's decision, AO has become aware of new information that suggests that the Appellant's recent conduct and behaviours may also have breached AO policies. Therefore, AO will investigate this information to determine whether additional sanctions are warranted.

Dean A. Hustwick
President and Chair

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